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# ENVIRONMENTAL ASSESSMENT BOARD

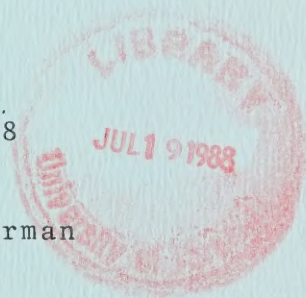
VOLUME: XXV

DATE: Thursday, July 7th, 1988

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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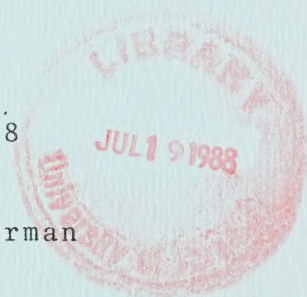
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

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Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Thursday, July 7th, 1988,  
commencing at 8:30 a.m.

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VOLUME XXV

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MR. B. CAMPBELL )	MINISTRY OF ENVIRONMENT
MS. J. SEABORN )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. J. WILLIAMS, Q.C.	ONTARIO FEDERATION OF
	ANGLERS & HUNTERS
MR. D. HUNTER	NISHNAWBE-ASKI NATION
	and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
MR. P. SANFORD )	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD )	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF
	LABOUR
MR. R. COTTON	BOISE CASCADE OF CANADA
	LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	





APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK )	MUNICIPAL COMMITTEE
MR. D. SCOTT )	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH )	PRODUCTS
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. D. COLBORNE	GRAND COUNCIL TREATY #3
MR. R. REILLY	ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. H. GRAHAM	CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY
MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON





(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JOHN EDWARD OSBORN,</u> <u>KENNETH A. ARMSON,</u> Resumed	4307
Cross-Examination by Mr. Castrilli	4307





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
120	Excerpts of Report entitled: Forest Management Manual for the Province of Ontario, 1980.	4325
121	Response by MNR to Interrogatory Question No. 8 posed by CELA.	4353
122	Response by MNR to Interrogatory No. 9 posed by CELA.	4361
123	Response by MNR to Interrogatory Question No. 10 posed by CELA.	4387
124	Response by MNR to Interrogatory Question No. 11 posed by CELA.	4391
125	Copy of Discussion Paper On Accuracy of FRi and O.C. Volume Estimates by J.A. Mervart, September, 1985.	4415
126	Response by MNR to Interrogatory Question No. 4 posed by CELA.	4421





1 ---Upon commencing at 8:30 a.m.

2 THE CHAIRMAN: Good morning, ladies and  
3 gentlemen. Be seated please.

4 Mr. Castrilli, before we start in with  
5 your cross-examination, perhaps we can hear from Mr.  
6 Freidin with respect to the documents that he was  
7 considering producing from yesterday.

8 MR. FREIDIN: Well, my notes indicate  
9 there were three requests, Mr. Chairman, so I will just  
10 deal with them one at a time.

11 The first request: That the proponent  
12 produce on an annual basis the volume, by species, cut  
13 on a management unit basis over the last ten years.

14 The Ministry will produce that material.  
15 The approximate time frame for doing that is six weeks.

16 Request No. 2: For forest management  
17 agreement management units, and this was broken into  
18 two parts: (a) the total volume of declared surplus on  
19 those FMA units and (b) how much of that surplus was  
20 licensed to third party operators.

21 As indicated in the evidence, Mr.  
22 Chairman, the Ministry's yield regulation is done on an  
23 area basis and, as a result, surplus is declared by  
24 area and not volume. The Ministry is, therefore,  
25 willing to undertake to provide the area of declared

1 surplus on all FMAs since 1980 which is the year that  
2 the FMA program was initiated.

3 THE CHAIRMAN: Is that satisfactory,  
4 Mr. Castrilli?

5 MR. CASTRILLI: Mr. Chairman, I actually  
6 had some some additional cross-examination with respect  
7 to these areas. And I think, in light of my friend's  
8 submissions so far, I would like to reserve on my  
9 response until I actually put those questions to the  
10 witnesses.

11 My initial response is that it is not  
12 based on what I now know, but I would like to wait  
13 until we actually get to that part of the  
14 cross-examination. It is acceptable as far as it goes,  
15 and it goes so far.

16 MR. FREIDIN: Just in what respect?

17 MR. CASTRILLI: I believe declared  
18 surplus can also be determined and is now required to  
19 be determined on an estimated surplus basis which is a  
20 volume determination.

21 MR. FREIDIN: In light of that comment,  
22 the Ministry will provide the volume harvested by  
23 species on the FMA units broken down into two parts.

24 Firstly, the amount harvested by the  
25 prime licensee, which was really the forest management



1       agreement holder, and the amount -- and, secondly, the  
2       amount harvested by third party operators. An  
3       additional one month is estimated to provide that  
4       information.

5                   THE CHAIRMAN: So that is ten weeks, is  
6       that what you are saying?

7                   MR. FREIDIN: I guess that's right.

8                   In terms of the second part of that  
9       request regarding the surplus licence to third party  
10      operators on FMAs, the Ministry will provide the area  
11      of the licences issued on the declared surplus areas to  
12      third party operators.

13                   The time required --

14                   THE CHAIRMAN: Excuse me, would you just  
15      go back over that last one, again. The area of the  
16      licences...

17                   MR. FREELAND: The area of the licences  
18      issued to third party operators on the declared surplus  
19      area.

20                   The time to provide the information, as  
21      originally indicated, that was just the area for the  
22      declared surplus and part (b) was three months.

23                   So now if I can just go back so we can  
24      recap: Request No. 1, six weeks; Request No. 2 would  
25      now be four months.

1                   Request No. 3, as I understand it, was a  
2                   request to provide for the last ten years, on a working  
3                   group or forest unit basis, the planned versus the  
4                   actual harvest on an area and volume basis.

5                   In addition, I understood the request to  
6                   be, or to include that for the period of the next five  
7                   years what is the planned area and volume and what the  
8                   demand is estimated to be.

9                   The response to that, Mr. Chairman, is as  
10                  follows: The Ministry will produce all the requested  
11                  information for plans produced under the new Timber  
12                  Management Planning Manual. That would involve  
13                  providing the information in plans which were approved  
14                  for implementation commencing April the 1st, 1987, and  
15                  the plans approved for implementation as of April the  
16                  1st of this year, 1988.

17                  The second group of plans will provide  
18                  the information related to the next five years, which  
19                  was included in the request - that is where we would  
20                  find it - so that we will provide that information.

21                  The Ministry is also content to produce  
22                  the requested information for all plans for forest  
23                  management agreement areas since 1980, which again was  
24                  the inception of the FMA program.

25                  The time to produce this material is --

1       or a tentative deadline, or delivery date of October  
2       the 15th, 1988.

3                       That information, Mr. Chairman, will  
4       provide -- or deals with plans that cover approximately  
5       70 per cent of the land area which has been licensed  
6       for timber management and that is consistent with the  
7       evidence given by earlier witnesses.

8                       Now, if I might then address some remarks  
9       to the information requested which is not included in  
10      what I have already indicated that the Ministry wishes,  
11      or feels is appropriate to provide.

12                      I am advised that for the other plans  
13      there are a number of practical difficulties which give  
14      rise to concern by the proponent and a sufficient  
15      enough concern -- and that concern is sufficient enough  
16      that my client wished me to advise you of it before the  
17      Board considers whether production, or such production  
18      is necessary.

19                      The difficulties referred to arise  
20      because of a number of matters and, very briefly, would  
21      include the fact that different time periods for plans  
22      which would have been in effect within the time frame  
23      we are now speaking of -- I'm sorry, there are plans  
24      with different time periods; some with five-year terms,  
25      some with 10-year terms; and some with 20-year terms.



1       The type of records which are available for some of  
2       those plans is not such that the information that might  
3       be provided would give an accurate picture of planned  
4       versus actual.

5                   I should add that one of the purposes of  
6       the Ministry preparing a new Timber Management Planning  
7       Manual was to address the problem of not being able to  
8       obtain some of these figures as readily as one might  
9       want. But, in any event, there is a problem about  
10      having plans that may have been prepared 25 years ago  
11      and following those through to provide the information.

12                   The information again -- those plans  
13      which did exist were prepared pursuant to a number of  
14      different planning manuals and, therefore, the  
15      information would be found in different formats with  
16      the difficulty of aggregating or comparing information  
17      from plans prepared under one manual to plans prepared  
18      by another.

19                   And, thirdly, there have been revisions  
20      to management unit boundaries, particularly when FMAs  
21      were created, and this means that for a number of plans  
22      for those units, which prior to becoming FMA areas were  
23      company units, some of the plans for those company  
24      units ended in mid-term and, therefore, the planned  
25      harvest or the actual -- the planned harvest was for

1 the full term of the plan.

2 Those plans, in some cases, would not  
3 have been completed, a new plan would have been  
4 prepared for a new area and, therefore, it is difficult  
5 to determine what the planned versus actual really was  
6 when you are thinking about the original planned  
7 harvest.

8 I have looked at Mr. Castrilli's request  
9 and only he can tell us exactly what the purpose is  
10 that he wishes to put this information.

11 My understanding, or just my view at  
12 looking at his request and trying to consider the  
13 purposes for which it might be put, but I do not  
14 believe that the production, or not producing  
15 information I have referred to, will be prejudicial to  
16 him. Now, again, I will have to hear from Mr.  
17 Castrilli.

18 I want to make it clear, however, that  
19 the Ministry is not - and I don't want you to interpret  
20 my remarks as saying the Ministry will not produce this  
21 material notwithstanding the difficulties - the  
22 Ministry's prime concern is to ensure that the Board  
23 has before it all the information it feels is  
24 necessary. However, it is my submission that in any  
25 type of litigation, whether it is before the courts or

1       whether it is before an administrative tribunal, the  
2       Board always has to weigh the probative value of the  
3       information which is requested against the obligations,  
4       practical and otherwise, which might be imposed on the  
5       proponent in order to provide that additional  
6       information.

7                       And, therefore, I am asking the Board to  
8       consider my submissions and I think probably hear again  
9       from Mr. Castrillil and make that weighting and the  
10      Ministry, of course, is content to abide by the Board's  
11      decision.

12                     In terms of the time frames that have  
13      been indicated: One of the reasons for time frames --  
14      some of the reasons for the time frames being the  
15      length they are include the fact that Panel 3 and Panel  
16      4 witnesses are the people who would almost, as a  
17      necessity, have to be involved in dealing with the  
18      requests. They are obviously tied up in other matters  
19      at the moment.

20                     Information would have to be sought from  
21      the field and, even if we started today - because of  
22      the present fire situation - I understand, in some  
23      districts, you are lucky if you can find one person in  
24      relation to forestry in the offices.

25                     And one last matter which deals not with



1       time -- well, with time I guess and, generally in terms  
2       of the weighting process, although it may appear too  
3       many, or it is the belief of many that government has a  
4       bottomless purse to provide information and to deal  
5       with requests. That is not the case, I don't think I  
6       have to indicate to this Board the fact that there are  
7       constraints within government in terms of finances and  
8       in terms of manpower.

9               This particular Environmental Assessment  
10       must, however, proceed in a fashion as I indicated,  
11       that the Board gets all of the information it requires,  
12       but I would just ask that that particular factual  
13       situation be kept in mind when you are doing your  
14       weighting.

15               Thank you.

16               THE CHAIRMAN: Thank you, Mr. Freidin.

17               Mr. Castrilli, do you wish to respond?

18               MR. CASTRILLI: Mr. Chairman, to some  
19       extent I think it would be helpful for the Board to  
20       have the basis of some of what I am going to say on the  
21       record through the cross-examination. In fact, I think  
22       it is the better way to deal with the response from my  
23       friend.

24               I am not sure at this stage when he came  
25       to information requested and not included, all that

1       that in fact contains, I think it is going to be  
2       necessary to look at the transcripts to confirm that,  
3       but just from what I recall from yesterday or from what  
4       I just now heard - let's just deal with the issue of  
5       declared surplus for a moment. I believe he said that  
6       yield regulation is done on an area basis and the  
7       Ministry will provide the area of declared surplus.

8               I think it would be best if I  
9       cross-examined the witnesses on that area and then we  
10      hear my submissions as to whether in fact estimated  
11      volume with respect to what is known as a surplus can  
12      also be provided. It is my understanding that it has  
13      been required to be provided, certainly if one looks at  
14      the Timber Management Planning Manual, but I think it  
15      is best that that come out through cross-examination.

16             MR. FREIDIN: I think the response was  
17      that we were going to provide volume information.

18             MR. CASTRILLI: Well, my notes say that  
19      you will provide area of declared surplus.

20             THE CHAIRMAN: No, that was the initial  
21      response and then he consulted with this clients again  
22      and then came back and said that they - after you made  
23      your comment on the estimation, that he -- I think, Mr.  
24      Freidin, you indicated that you would then provide it  
25      on a volume basis, an estimated volume basis.

1                   MR. FREIDIN: Yes, that's right, and we  
2 would provide the volume basis broken down by prime  
3 licensee and third party operators.

4                   THE CHAIRMAN: So that I think covers  
5 that one. What about --

6                   MR. CASTRILLI: Now, I am looking at the  
7 first request and the third request which was described  
8 as: Produce on an annual basis the volume cut by  
9 species. I am not certain now whether he said volume  
10 or whether I wrote volume expecting he was going to  
11 write volume.

12                  MR. FREIDIN: Request No. 1, we agreed to  
13 produce, on a management unit basis, year-by-year for  
14 the last ten years volume by species.

15                  MR. CASTRILLI: All right. That's the  
16 actual cut.

17                  Now, as I recall, the request was for  
18 allocated cut as well. Now, does your third item speak  
19 to that Mr. Freidin?

20                  MR. FREIDIN: I don't recall that being  
21 part of the request and I don't know what my friend  
22 means by allocated.

23                  MR. CASTRILLI: It was the original  
24 request that I thought I had an undertaking for  
25 yesterday, on the first of the undertakings we had

1       yesterday.

2                   MR. CHAIRMAN:   Well --

3                   MR. CASTRILLI:   Allocated clearly means  
4       planned, planned depletions.

5                   THE CHAIRMAN:   The request I have written  
6       down is you want, by management unit, demand for the  
7       next five years and for each management unit the  
8       allowable cut or MAD and the actual cut for the last  
9       ten years for the area of the undertaking.

10                   That, I believe, was your --

11                   MR. CASTRILLI:   So for the last ten years  
12       we want planned versus actual.

13                   THE CHAIRMAN:   And then I added further  
14       that the Ministry would be allowed to provide an  
15       explanation of the figures, either orally or in  
16       writing, and the Board would allow the Ministry to  
17       recall witnesses to explain the figures produced and  
18       Mr. Castrilli would have the right to cross-examine on  
19       this new information.

20                   That is what I had, Mr. Freidin.

21                   MR. FREIDIN:   Then was Request No. 3  
22       redundant?

23                   MR. CASTRILLI:   Well, you see, I actually  
24       believed I had everything I wanted after the first  
25       undertaking.  It was only in response to one of my



1 questions from Dr. Osborn when he indicated that his  
2 undertaking had been with request to area only that I  
3 said -- that the matter arose again.

4 I have from day one been asking for  
5 planned and actual area and volume.

6 Now, if Mr. Freidin is telling me I am  
7 going to get that, there is no further discussion  
8 necessary.

9 MR. FREIDIN: I would ask, Mr. Chairman,  
10 that you deal with that request then, if that was the  
11 first request, that you consider my submissions and  
12 consider Mr. Castrilli's request in that light.

13 THE CHAIRMAN: With respect to the  
14 allowable cut?

15 MR. FREIDIN: With respect to...

16 THE CHAIRMAN: When you take a look at  
17 your third submission, you are talking about other  
18 plans, and I took that to be other than the ones  
19 referred to in the first two undertakings that you were  
20 addressing.

21 MR. FREIDIN: But my understanding was in  
22 terms of the first request we were dealing with a  
23 request for volume by species, not planned and not  
24 actual.

25 And if, in fact, there is confusion

1       about -- I guess what I am saying is: I consulted with  
2       my client and the planned versus actual has  
3       considerable difficulties and if, in fact, there was an  
4       indication yesterday about planned versus actual, I  
5       would want to step back from that and have the Board  
6       consider the submissions that I made in terms of the  
7       difficulties with the planned versus actual as they  
8       were made this morning.

9                       I think the three requests, as I have  
10       indicated, covers the ballpark in terms of everything  
11       that Mr. Castrilli wishes, and if he has concern about  
12       what's not provided, we could leave aside - if I am  
13       allowed to step back from the undertaking given  
14       yesterday as he recorded it - I would like to deal with  
15       the matter on that basis.

16                      THE CHAIRMAN: Well, let me try and get  
17       this straight in our minds -- at least my mind.

18                      It is the plans that will deal with the  
19       allowable cut that you would have some difficulty in  
20       going back to find that information for the variety of  
21       the reasons given; namely, that some of the plans are  
22       in a different format, they follow different planning  
23       manuals, some of them have been superseded by FMA  
24       agreements.

25                      MR. FREIDIN: Those are actuals.

1 THE CHAIRMAN: And you have got trouble  
2 in putting your finger on that type of information.  
3 Some of the plans have not been completed.

4 MR. FREIDIN: There is --

5 THE CHAIRMAN: Just a moment. That would  
6 be affecting the 30 per cent, would it not, that are  
7 not under FMA management unit agreements?

8 MR. FREIDIN: The timber management plan  
9 was prepared and covered periods of time prior to 1980.

10 THE CHAIRMAN: Right. And a number of  
11 those plans were rolled into FMA agreements?

12 MR. FREIDIN: That's correct.

13 THE CHAIRMAN: Since 1980?

14 MR. FREIDIN: Since 1980.

15 THE CHAIRMAN: Okay. And those are the  
16 plans that you would have difficulty producing the  
17 information?

18 MR. FREIDIN: That's correct.

19 THE CHAIRMAN: Okay. With respect to the  
20 FMA agreement areas, you would have no difficulty in  
21 providing for the MAD figures or allowable cut, as well  
22 as the actual cut figures taken from the scaling  
23 information?

24 MR. FREIDIN: That's correct.

25 MR. CASTRILLI: Mr. Chairman, the scaling

1 information is only the harvest, it is not the planned.  
2 And when my friend made reference yesterday to  
3 statistics already in their statistics reports, scaling  
4 returns only refer to what was harvested, they don't --

5 THE CHAIRMAN: That would prove the  
6 actual cut.

7 MR. FREIDIN: You will get the actual and  
8 the planned information in all the plans prepared for  
9 the FMAs.

10 THE CHAIRMAN: Since 1980?

11 MR. FREIDIN: That's correct.

12 THE CHAIRMAN: Okay.

13 MR. FREIDIN: The difficulty arises in  
14 relation to plans prepared before 1980.

15 THE CHAIRMAN: Okay. So you tell us, Mr.  
16 Castrilli: What is the probative value of going back  
17 before 1980 to take a look at that information and how  
18 the Ministry handled it and how close they were between  
19 planned and actual when you are going to have,  
20 effectively, an eight-year history of past management  
21 practices on the part of the Ministry to give you and  
22 us an idea of how they handled it then, bearing in mind  
23 that what we are looking at specifically in this  
24 application is a new planning process and what they are  
25 going to be doing in the future?



1                   MR. CASTRILLI: I think the planned --  
2                   well, the time frame I chose was one that would  
3                   basically cover the period since the amendments. I  
4                   chose 10 years, it was roughly ten years.

5                   So that would -- I am thinking in terms  
6                   of 1979 to 1988 or whenever the amendments came into  
7                   force.

8                   THE CHAIRMAN: Okay.

9                   MR. CASTRILLI: So if I chose a 10-year  
10                  period it was to that purpose. If, in fact, it's a  
11                  nine-year period, I am content to make it a nine-year  
12                  period.

13                 THE CHAIRMAN: So with respect to what  
14                  Mr. Freidin is saying about the difficulties going  
15                  beyond 1980 -- or before 1980, you would have no  
16                  difficulty if you had the information since 1980 that  
17                  he has already alluded to?

18                 MR. CASTRILLI: If we have nine years' of  
19                  information, I'm prepared to live with that.

20                 THE CHAIRMAN: All right.

21                 MR. FREIDIN: I would want to find out  
22                  when in fact that amendment came into effect. If it  
23                  was 1981, I don't want to go back and do the same thing  
24                  for 1980.

25                 MR. CASTRILLI: What I was concerned

1       about was a reference to information that would only  
2       commence April 1, 1987. That, in my submission, would  
3       not give the Board a good enough indication of  
4       anything.

5                   THE CHAIRMAN: Well, that evidently isn't  
6       their position.

7       ---Discussion off the record

8                   MR. FREIDIN: Oh, I'm sorry, 1980 is  
9       okay.

10                  THE CHAIRMAN: 1980. Okay.

11                  So with respect to the first two  
12       undertakings you want to cross-examine on one area --  
13       well, you do not have to cross-examine on that area now  
14       really -- well, you may wish to cross-examine, but they  
15       have already indicated they will provide the estimated  
16       numbers you want.

17                  MR. CASTRILLI: I think it would be  
18       helpful to have it on the record. It won't be long in  
19       any event.

20                  MR. FREIDIN: And just so I understand,  
21       is there still a problem -- I will leave it.

22                  THE CHAIRMAN: Well, I think with respect  
23       to your concerns about the information before 1980, the  
24       Board's position is that the Ministry will not have to  
25       produce that. You just have to go back to when the

1 manuals changed and the FMAs came into effect, which  
2 you are saying is 1980.

3 MR. FREIDIN: And, as I understand it, it  
4 is open to the proponent to in fact call evidence to  
5 explain the information provided, in fact, do what is  
6 required?

7 THE CHAIRMAN: Yes.

8 MR. CASTRILLI: I have no objections.

9 THE CHAIRMAN: And, Mr. Castrilli will  
10 have an opportunity to cross-examine those witnesses on  
11 that information only.

12 DR. OSBORN: Mr. Chairman, if I could  
13 make what I am proposing to be a constructive  
14 observation, just so the magnitude of the data is  
15 realized.

16 Approximately a hundred management units,  
17 each management unit with typically, let's say, five or  
18 six working groups. We have a piece of paper with five  
19 hundred lines on it and each line has an actual/planned  
20 area and volume figure.

21 Now, if you can visualize the size of  
22 this piece of paper and the number of lines on it, I  
23 just want to make sure, given our counsel's remarks,  
24 that the magnitude of that data is comprehended.

25 THE CHAIRMAN: Okay. We comprehend the

1       magnitude, but tell us this: Can this information be  
2       done on a regional basis as opposed to a management  
3       unit basis?

4                   DR. OSBORN: Yes, sir, it could be and --  
5       yes.

6                   MRS. KOVEN: Without requiring the  
7       forester at the local level going through the same  
8       exercise?

9                   DR. OSBORN: Yes, it would. To get the  
10      numbers to go into the regional summary will require  
11      the foresters to go through the arithmetic at the  
12      management unit and then add them up.

13                  And why I hesitated was the explanation  
14      becomes a little bit more confounded because we have  
15      added management units together and we are not really  
16      speaking to the question I am hearing Mr. Castrilli ask  
17      for.

18                  THE CHAIRMAN: Okay. I think in view of  
19      what's taken place, the Board will require the Ministry  
20      to provide the information they have indicated that  
21      they would provide, with this caveat: When it comes to  
22      examining the proponents on this information, Mr.  
23      Castrilli, there is no way that the Board is going to  
24      tolerate you going through each of the figures, line by  
25      line, unit by unit.



1                   If you can make some observations looking  
2           generally at the data, that is fine but, as we  
3           indicated yesterday, the probative value of this, in  
4           our view, goes only effectively to an issue, if you  
5           want to call it, of credibility of past management  
6           practices on the part of the Ministry.

7                   And whatever weight the Board wishes to  
8           place on that in terms of the Ministry's future  
9           management practices, based on a new planning process,  
10          the Board can do. But that is really the only value  
11          that we can see of that information and I think we are  
12          going a long way in requiring the Ministry to produce  
13          it, for whatever value it may are may not show.

14                   MR. CASTRILLI: Mr. Chairman, actually it  
15          may well be that what we will do is, once we have the  
16          data, you will in fact see it itanalyzed by our experts  
17          in our case. It is one of the ways in which we can  
18          shorten the time in which we actually deal with the  
19          information.

20                   THE CHAIRMAN: Okay. But we would rather  
21          see it come in by way of conclusions, whatever  
22          conclusions you can draw on it, rather than dragging it  
23          out to get it all on the record.

24                   This will be one of the areas that the  
25          Board will say: It is filed, it does not have to be

1       looked at orally by a witness line by line. We can  
2       read it, you can read it, draw some conclusions from  
3       it, if you want, and take it from there.

4               MR. CASTRILLI: I understand the Board's  
5       ruling in that regard.

6               THE CHAIRMAN: Okay.

7               Mr. Martel is indicating to me that the  
8       Board has one other concern and, that is: In the  
9       future when you are putting forward your request of  
10      exactly what you want in terms of having any of the  
11      parties provide - dealing basically with production  
12      issues - it would be helpful if you put it in writing  
13      specifically so that the party who has to respond is  
14      fully clear of what is being asked, the Board will also  
15      be clear, and we will not have to go into a lengthy  
16      oral discussion as to what was asked and whether what  
17      was asked is what was understood.

18              All right. And I would like to say that  
19      all parties should be doing this in the future with  
20      respect to requests for production of information.

21              MR. CASTRILLI: Mr. Chairman, as I  
22      understand that last comment, you are not asking us to  
23      file supplementary interrogatories, then?

24              THE CHAIRMAN: No, no. I mean, if you  
25      have put it in the interrogatories - and I know in this

1 case you have asked for some of the information by way  
2 of interrogatories - but I think it is helpful to  
3 everybody; if you put it in writing, we can all look at  
4 it.

5 MR. CASTRILLI: I can certainly, when I  
6 am making the request orally, simply give Mr. Freidin  
7 and the Board a copy in writing of what I am asking  
8 for.

9 THE CHAIRMAN: Right.

10 MR. CASTRILLI: If that is what you are  
11 saying, that's fine.

12 THE CHAIRMAN: Mr. Tuer?

13 MR. TUER: Mr. Chairman, I have been  
14 trying to take down what has been said by Mr. Castrilli  
15 and Mr. Freidin with respect to the current request and  
16 I am far from clear as to what has been asked and what  
17 has been offered.

18 So perhaps it would helpful to the Board,  
19 and it is certainly helpful to me as counsel to one of  
20 the parties, to have a written statement of what in  
21 fact is going to be produced.

22 THE CHAIRMAN: All right. With respect  
23 to this one, because there are several facets to it,  
24 why don't you do this, Mr. Castrilli. Rather than you  
25 asking again, why doesn't Mr. Freidin just produce a

1       one-page document indicating what he has agreed to  
2       produce, okay, and give it to Mr. Castrilli and all of  
3       the other parties and the Board, and hopefully that  
4       will end this particular request.

5                   In other words, Mr. Castrilli will be  
6       content that is what he sought, given the discussion,  
7       and that is what is going to be produced.

8                   MR. FREIDIN: I have my final draft right  
9       here.

10                  THE CHAIRMAN: Okay. And if we have  
11       disagreement at that point, we will settle it once and  
12       for all and then any future requests for production  
13       will be dealt with by the person who wants the stuff,  
14       putting in something in writing, and the person who  
15       ultimately responds, putting the response in writing.  
16       And then we will all be clear.

17                  Thank you, Mr. Tuer, I think that's  
18       helpful.

19                  Very well. Are we ready for some  
20       evidence?

21                  MR. CASTRILLI: Yes. Mr. Chairman, what  
22       I thought I would do is begin on this issue of  
23       allocated versus actual cuts just so I and the Board  
24       are clear as to what is now required arising out of the  
25       management -- the current management plan, so there is



1 a better context for the reasons why I asked the  
2 questions I asked.

3 I don't think it was clear in responses I  
4 got yesterday exactly what was available and what  
5 wasn't or in what form it was available, or has been  
6 required to be provided.

7 JOHN EDWARD OSBORN,  
8 KENNETH A. ARMSON, Resumed

9 CONTINUED CROSS-EXAMINATION BY MR. CASTRILLI:

10 Q. Dr. Osborn, Exhibit 29, which is the  
11 Statistics 1987, that document, yesterday you were  
12 referring to scaling volumes when we were discussing  
13 this issue and those are the measured -- what the  
14 measured wood has been and what has been paid for and  
15 what was the value of it; is that right?

16 DR. OSBORN: A. Yes.

17 Q. And we would see that, for example,  
18 beginning at page 26 of Exhibit 29?

19 A. It starts on page 25.

20 Q. 25, okay. And this is the total cut  
21 by volume on a provincial basis; is that correct?

22 A. From Crown land.

23 Q. Crown land. So the answer is yes?

24 A. From Crown land, yes.

25 Q. And you would confirm that there are

1 no planned or allocated cut volumes in Exhibit 29; is  
2 that correct?

3 A. Yes, that's correct.

4 Q. And would you also confirm for me  
5 that the planned or allocated depletion volumes on a  
6 management unit basis are required to be forecast, for  
7 example, in Table 4.17 at page 87 of Exhibit 7, the  
8 Timber Management Planning Manual?

9 A. The planned allocated depletions--

10 Q. Yes.

11 A. --with the three words in the front.

12 Q. Some of them are redundant, but, yes,  
13 the allocated depletion volumes.

14 A. Yes, one makes an estimate at the  
15 beginning of the plan of what is the anticipated  
16 equation.

17 Q. And could I just refer you to Table  
18 4.17, that is at page 87 of the Timber Management  
19 Planning Manual which is Exhibit 7, page 87.

20 MR. MARTEL: What page?

21 MR. CASTRILLI: 87.

22 MR. MARTEL: Thank you.

23 MR. CASTRILLI: The table pages don't  
24 have numbers on them, so you would have to look on the  
25 back of the page to see that it was page 88.

1 Q. So the heading of the Table 4.17 is:  
2 Forecasted Volume Estimates for the Area of the  
3 Allocated Depletion, and we have it there on an area  
4 and a volume basis; is that correct?

5 DR. OSBORN: A. Yes.

6 Q. And the allocated depletion area on a  
7 management unit basis is required to be forecast by  
8 Table 4.16 at page 83 of Exhibit 7?

9 A. Yes.

10 Q. Thank you. So those two tables are  
11 planned cuts by area by volume; is that right?

12 A. Yes.

13 Q. So that when we look at Exhibit 4,  
14 the Environmental Assessment Document at page 98, those  
15 two tables I just referred you to are part of the  
16 foundation stone for the Ministry in fact acquiring  
17 planned or, if you like, allocated area and volume  
18 information; is that right?

19 A. Yes.

20 Q. Perhaps I will refer you, again  
21 speaking of Exhibit 7, page 145. It is Table 6.1.

22 A. I have it.

23 Q. Thank you. Would you confirm for me  
24 that this table indicates that --

25 MR. MARTEL: Which table?

1 MR. CASTRILLI: I am sorry, it is Table  
2 6.1 at page 145. Again, the table page would not have  
3 a number, so the backside of it would indicate it is  
4 page 146. And its title is: Annual Report of  
5 Depletion by Area.

6 Q. Dr. Osborn, this table indicates that  
7 we are talking about annual depletion by area and  
8 working group required to be produced on an annual  
9 basis; is that correct?

10 DR. OSBORN: A. Correct.

11 Q. On a management unit by management  
12 unit basis?

13 A. Correct.

14 Q. The next Table, 6.2, page 147, this  
15 is still of Exhibit 7. It is an Annual Report Sheet of  
16 Harvest Area Depletion by Licensee?

17 A. Correct.

18 Q. So it is annual, by licensee and a  
19 review of what was harvested on an area basis; is that  
20 correct? These are actual depletions by working group  
21 by management unit?

22 A. In Table 6.1 and 6.2, yes.

23 Q. Thank you. Table 6.3, which is at  
24 page 149, it is entitled: Annual Report of Wood  
25 Utilization by Licensee. Would you agree with me, and



1 can you confirm for me, Dr. Osborn, it is an actual  
2 depletion by volume and by species?

3 A. Yes, aggregated into conifer and  
4 hardwood.

5 Q. So that it is an annual report of  
6 what was harvested by volume; is that correct?

7 A. Correct.

8 Q. Can I now refer you to page 141 of  
9 Exhibit 7. Do you have that page?

10 A. Yes.

11 MR. CASTRILLI: Page 141, Mr. Chairman,  
12 is Annual Report Requirements. It is not a table, it  
13 is text, 6.0 is the heading.

14 Q. I would like to refer you to  
15 paragraph 3 on page 141, Dr. Osborn. The paragraph  
16 begins:

17 "Annual reports of past forest operations  
18 must be submitted for statistical and  
19 analytical purposes to aid in fulfilling  
20 the Ministry of Natural Resources'  
21 overall responsibility for the management  
22 of Crown land."

23 Then it says:

24 "Annual reports are not part of the  
25 management plan."

1                   And would you agree with me, Dr. Osborn,  
2           that if it is a requirement of the Timber Management  
3           Planning Manual, I presume therefore of the Crown  
4           Timber Act, to produce such reports annually by each  
5           management unit?

6                   DR. OSBORN: A. That is what it says.

7                   Q. Would it be fair to conclude that if  
8           the Ministry does not have these annual reports there  
9           has not been compliance with the Timber Management  
10          Planning Manual?

11                  A. As I understand -- sorry, did you  
12          finish?

13                  Q. Yes.

14                  A. As I understand, when this manual  
15          goes into effect those annual reports, as indicated in  
16          6.1, 6.2, are in a part of the process.

17                  Q. Would you agree with me that in light  
18          of the remarks in paragraph 3 at page 141 that it would  
19          be fair to conclude that if the Ministry of Natural  
20          Resources does not know the allocated and actual  
21          depletions it cannot fulfill its mandate to practise  
22          sustained yield management?

23                  A. Would you run through the question  
24          again, I have got to think about all the pieces in  
25          there, please?

1 Q. Sure. Would it be fair to conclude,  
2 Dr. Osborn, that if the Ministry of Natural Resources  
3 does not know the allocated and actual depletions it  
4 cannot fulfill its mandate to practise sustained yield  
5 management?

6 A. The answer to the statement is yes,  
7 but with one comment. We have been alluding to the  
8 annual report requirements which are required, as  
9 indicated in the manual, management control is on the  
10 five-year basis.

11 So the answer to your question is: Yes,  
12 recognizing that really what did we allocate or plan  
13 for five years, and really what happened in the  
14 five-year period is the basis for control.

15 THE CHAIRMAN: So does it follow then  
16 that if the Ministry did not know the allocated and  
17 actual depletion for a five-year period based on five  
18 annual reports, it would not be meeting its  
19 responsibilities to carry on sustained yield?

20 DR. OSBORN: That is correct, sir. It  
21 also should know annually. The part I wanted to  
22 express was it was comparing those values on a  
23 five-year basis that was critical to the evaluation:  
24 Did we or did we not meet the management objectives,  
25 given the records come on an annual basis.

1                   MR. MARTEL: But since you plan out an  
2                   amount of work per year as part of the long-term -- you  
3                   have a long-term plan and then you have a work  
4                   schedule, as I understand it, year-by-year, and if you  
5                   are going to deviate from that work schedule, it's my  
6                   understanding, that you have to get some approval from  
7                   the person in the FMA for deviation.

8                   DR. OSBORN: Yes, sir.

9                   MR. MARTEL: Would you not have some  
10                  control if that reported adequately -- on an annual  
11                  basis, you would know full well what they had decided  
12                  they were going to cut, what you had approved, and be  
13                  in a position to determine whether in fact they are not  
14                  fulfilling their obligations?

15                  DR. OSBORN: On an annual basis knowing  
16                  whether -- what they did, what they thought they were  
17                  going to do, yes, sir, you would know. And this is a  
18                  fair comment. And so on an annual basis these records  
19                  are kept and an awareness is made between what was cut  
20                  and was depleted is recorded and that is looked at  
21                  annually. I don't deny that in the slightest.

22                  But in terms of measuring the fulfillment  
23                  of the objective, that is done on a five-year basis.  
24                  Your comment is perfectly correct, sir, there is a  
25                  knowledge of what is on an annual basis allowed and not



1       allowed, certainly.

2                   MR. CASTRILLI: Q. Dr. Osborn, I don't  
3       want to take you back physically to Exhibit 29 - no, I  
4       wish to take you back physically in time in a moment..

5                   But I just wanted to ask you: Would  
6       there be any difficulty in the Ministry producing  
7       planned allocations in the annual statistics reports,  
8       in light of the fact the information is required to  
9       come to the Ministry on a management unit by management  
10      unit basis on an annual basis?

11                  DR. OSBORN: A. The numbers will exist  
12      in the management plans. What you are talking of is a  
13      logistical request to put all those numbers together  
14      that says: This year, for the ensuing next 12 months,  
15      the planned value is zippity zip. Okay, logistical.

16                  Q. So it can be done?

17                  A. Technically, yes.

18                  Q. Would there be any difficulty in  
19      putting that information on a management unit by  
20      management unit basis into the statistics reports?

21                  A. Logistical, as I so mentioned.  
22      Technically it is possible, the data will exist, you  
23      can draw these reports together, and no doubt over a  
24      period of time, given the right computer system, you  
25      could have it put together.

1 THE CHAIRMAN: What kind of a report  
2 would that turn out to be though in terms of volume of  
3 the report?

4 DR. OSBORN: Okay. Now, so you have  
5 suddenly jumped -- oh, sorry, volume in that -- sorry,  
6 I thought you meant volume of wood for a moment.

7 THE CHAIRMAN: No, no.

8 DR. OSBORN: Again we have ambiguity in  
9 the English language. I am sorry, I got so intent in  
10 the trees.

11 THE CHAIRMAN: Could a mortal person lift  
12 it, put it that way.

13 DR. OSBORN: Again, management unit by  
14 management unit. In 100 management units plus, we have  
15 an average five or six forest units, we have got 600  
16 lines, 600 entries so, okay, it goes on two pages. So,  
17 yes, you can lift it, sir.

18 So the question is not can it be done; in  
19 the sense that, yes, it could be done, it's to  
20 illustrate the technical, logistical putting it  
21 together and does it serve any value.

22 MR. CASTRILLI: Q. Would you not think  
23 knowing whether planned -- the relationship of planned  
24 versus actual would have some value to many people  
25 interested in the issue of sustained yield management

1 in this province?

2 DR. OSBORN: A. Okay. Without trying to  
3 be coy, the number of people who really have an  
4 interest in planned and actual- and I mean dead  
5 serious - how many, really? The information is really  
6 important at the local level, the local producers, the  
7 local managers, the local people.

8 Now, admittedly, there are some members  
9 of the public who have an interest, and fully  
10 understood, but I have some interesting concerns as to  
11 whether a table of annually what the planned area for  
12 depletion was unit, by unit, by unit serves a great  
13 deal of purpose, given that the statistics report is  
14 trying to describe what are the key important items,  
15 okay, given that.

16 So I am not really in a position to  
17 judge, but I have some professional concern as to  
18 whether the production of those statistics on an annual  
19 basis will really serve much purpose.

20 THE CHAIRMAN: Is this information now or  
21 in the future going to be computerized?

22 DR. OSBORN: Ah, I am not sure because I  
23 am not working directly with this system, sir. But I  
24 would hazard a guess - no, I won't hazard a guess - I  
25 would almost guarantee over time this sort of

1 information lends itself to computerization, so there  
2 is no technical reason why that could not happen.

3 MR. FREIDIN: I am advised that it is not  
4 contemplated to be computerized at this time.

5 THE CHAIRMAN: So those kinds of data  
6 would have to be manually gathered; is that what you  
7 are saying?

8 DR. OSBORN: Yes, and that's why my  
9 initial reaction to logistics.

10 MR. CASTRILLI: Well, I must say I am  
11 astounded to hear, given what we heard in-chief about  
12 the computer age in the Ministry of Natural Resources,  
13 that information such as this is not computerized.

14 THE CHAIRMAN: Out of curiosity, why  
15 wouldn't it be? I mean, let me -- not you, Mr.  
16 Freidin.

17 MR. FREIDIN: I don't know.

18 THE CHAIRMAN: You were giving the  
19 answers so I looked to you.

20 MR. FREIDIN: I was hoping you wouldn't  
21 say that.

22 THE CHAIRMAN: That's right.

23 Dr. Osborn?

24 DR. OSBORN: The feeling probably would  
25 be a matter of priority, sir, it really is between the



1       variety of things to go back to resources and what do  
2       we do first.

3                   And all I can think of is why the answer  
4       came back the way it was, in terms of the list of  
5       priorities, that doesn't happen to be top of the list  
6       at this point in time.

7                   MR. MARTEL: Do you think you are reading  
8       the public right?

9                   DR. OSBORN: Perhaps I shouldn't have  
10      opened my mouth. I recognize -- I don't honestly know,  
11      but as a professional, I really have some concern as to  
12      how many of the public genuinely have a -- year-by-year  
13      compare what actually took place.

14                  Overall, yes, where the general intent,  
15      where is the general drift going, but on a  
16      unit-by-unit, forest unit by forest unit annually, I  
17      think, sir, I am reading the public right in that level  
18      of detail for Ontario as a public.

19                  Locally, the data are available to the  
20      local people if they want to look at it on an annual  
21      basis. I am no expert on that, but I have this feeling  
22      that in the general attitude - and I come from southern  
23      Ontario and I talk to people about forestry - in all  
24      honesty, I am not sure I am far off reading some of the  
25      publics right.

1                   MR. CASTRILLI: Q. Dr. Osborn, I was  
2 just wondering whether inside or outside of the  
3 Ministry, am I the first person to have ever asked for  
4 this information?

5                   DR. OSBORN: A. The information exists  
6 within the Ministry as described in the manual. So you  
7 are not the first person to have asked for it, sir.

8                   THE CHAIRMAN: What would happen if you  
9 had a request under the Freedom of Information Act for  
10 that kind of data, say it were plunked on the desk of  
11 whatever department at head office?

12                  DR. OSBORN: There would be another  
13 logistical scrambling to go right the way back to the  
14 unit to draw the information from the management plan  
15 that for that one-year period, what was the planned  
16 allocation for that year and, yes, the numbers will be  
17 crunched up and ground up and put back as an answer.

18                  No doubt about it, if that was an  
19 obligation, it would get done. We are back to  
20 priorities; other things, therefore, would not have got  
21 done.

22                  MRS. KOVEN: You wouldn't have to go back  
23 to the forest unit because you would have the annual  
24 report, Dr. Osborn?

25                  DR. OSBORN: Yes, given we just lift

1       those up, pluck them up, copy them all down, photocopy  
2       all the annual reports, given the system was in  
3       operation, that would make life a lot easier; hence,  
4       some of the learning over the past manuals that have  
5       come eventually into the form it is in now.

6                MRS. KOVEN:   How many years of annual  
7       reports do you have now?

8                DR. OSBORN:   Based on this manual?   Since  
9       this manual came into effect would be the answer.   But  
10      in the past manuals for the FMAs and the FMA manual,  
11      there will be the annual reports from the FMAs, so  
12      those sorts of data would exist.

13               It is a gradual learning curve of trying  
14      to get data that served both forest management and, in  
15      due respect, the interests of the public.

16               MRS. KOVEN:   So you have one or two  
17      annual reports?

18               DR. OSBORN:   For this manual there would  
19      be, given it went into effect, and for the FMAs it  
20      would be longer than that, yes.

21               MR. FREIDIN:   For each management unit--

22               MRS. KOVEN:   For each management, yes.

23               MR. FREIDIN:   --as it has been phased  
24      into the process.

25               Under the Freedom of Information, I don't

1 know how much volume would be taken -- I don't know  
2 idea what the Freedom of Information Act -- but I  
3 understand that depending on volume and things, there  
4 are cost implications which relate to requests.

5 MR. CASTRILLI: Q. Dr. Osborn, you  
6 referred to this manual, this manual is Exhibit 7 for  
7 the record?

8 DR. OSBORN: A. Thank you. Sorry, yes.

9 Q. What about the previous manual, the  
10 1980 manual? Would you agree with me that this type of  
11 information was required in the 1980 manual?

12 A. Table 5.2 --

13 MR. CASTRILLI: Mr. Chairman, this is not  
14 an exhibit and I don't really wish to introduce it as  
15 an exhibit for this panel. I think this is now the  
16 second panel I have actually referred to it. I think  
17 undoubtedly it will become one for the next panel, but  
18 for the purposes of the discussion, I would like to  
19 hear Dr. Osborn's answer.

20 THE CHAIRMAN: Well...

21 MR. FREIDIN: All I am saying, before he  
22 answers perhaps you could just indicate that that  
23 manual is the manual that deals with plans for FMA  
24 only.

25 MR. CASTRILLI: Sorry, that manual, being



1 the 1980 manual which was written by Mr. Armson, Mr.  
2 Robinson and Dr. Osborn; is that right?

3 DR. OSBORN: Correct, for FMAs.

4 MR. CASTRILLI: Q. The title says:  
5 Forest Management Manual for the Province of Ontario.  
6 So the title doesn't lead one to the conclusion --

7 DR. OSBORN: A. And on page 1 on the  
8 Preface the last line says:

9 "The purpose of this manual is to explain  
10 how the various obligations in the  
11 agreement that refers to the manual ought  
12 to be performed."

13 The agreement being the forest management  
14 agreement.

15 Q. So this is just FMAs?

16 A. Yes, sir.

17 Q. Was there a manual for Crown  
18 management units and company management units or would  
19 that be Exhibit 112?

20 A. Yes.

21 Q. Okay. Sorry, you were answering my  
22 question with respect to the 1980 Forest Management  
23 Manual.

24 A. In Table 5.2, in that manual on page  
25 40, is a table that is called the Allocated Final

1 Annual Allowable Cut. This is shown by working group,  
2 area and volume.

3 Q. So that information has been required  
4 to be produced since the 1980 manual?

5 A. That is the format of the FMA  
6 manuals.

7 Q. For FMAs. And, Dr. Osborn, while we  
8 are at this as yet unexhibited exhibit--

9 A. Okay.

10 Q. --I turn your attention to page --  
11 the bottom of page 30, top of page 31.

12 THE CHAIRMAN: Well, if we are going  
13 to--

14 MR. FREIDIN: If we are going to follow  
15 it in sequence --

16 THE CHAIRMAN: --follow with questions on  
17 this I think it should go in, or excerpts of it should  
18 go in.

19 MR. CASTRILLI: Well, I think probably  
20 the entirety of it should go in.

21 THE CHAIRMAN: I mean, whether or not it  
22 is going to come up in further panels does not matter  
23 if it is already exhibited.

24 MR. CASTRILLI: Okay. Let me just have  
25 Dr. Osborn confirm his understanding and I will file it

1 next.

2 THE CHAIRMAN: I mean, surely these  
3 witnesses are sufficient to prove this particular...

4 MR. CASTRILLI: He wrote this manual, so  
5 did Mr. Armson for that matter.

6 THE CHAIRMAN: So why don't you just have  
7 him identify it, explain it briefly, and let's exhibit  
8 it.

9 MR. CASTRILLI: Well, I don't have copies  
10 of it, that is the difficulty.

11 THE CHAIRMAN: Oh. Well, why don't we do  
12 this: Why don't you give it--

13 MR. CASTRILLI: Give it a number.

14 THE CHAIRMAN: --give it a number now and  
15 at the break perhaps you can give copies of it, at  
16 least the excerpts that you are referring to.

17 MR. CASTRILLI: Thank you, Mr. Chairman.

18 THE CHAIRMAN: Exhibit 120.

19 ---EXHIBIT NO. 120: Excerpts of report entitled:  
20 Forest Management Manual for  
the Province of Ontario, 1980.

21 MR. MARTEL: What is the title for that  
22 again, Mr. Castrilli, please?

23 MR. CASTRILLI: Yes, Mr. Martel. Forest  
24 Management Manual for the Province of Ontario, 1980.  
25 The authors are Mr. Armson, Dr. Osborn and a Mr. F.C.

1 Robinson, all of the Ministry of Natural Resources.

2 Mr. Chairman, the reason why I hesitated  
3 making it an exhibit is because I only have one  
4 question with respect to it; but it's moot now, it is  
5 now an exhibit.

6 THE CHAIRMAN: It is in.

7 MR. CASTRILLI: And I understand that Mr.  
8 Freidin has been kind enough to offer to produce the  
9 requisite number of copies for the parties and the  
10 Board.

11 THE CHAIRMAN: Charity doesn't stop at  
12 home; does it?

13 MR. CASTRILLI: Q. Just generally, Dr.  
14 Osborn - because it isn't fair to the Board or the  
15 parties to be referring to quotes - can you just simply  
16 confirm for me that the data referred to in what is now  
17 Exhibit 120 permits a comparison with the forecasts to  
18 show progress in trends, it is one of the purposes?

19 I am referring to page 231.

20 DR. OSBORNE: A. Yes, that is quite  
21 right. I know where you are reading the words from.  
22 Yes, this was the intent, again, in the FMA manual,  
23 much as in the new one.

24 Q. All right. And if we look at the  
25 tables that are found throughout the 1980 manual, we



1 are basically looking at the types of tables we now see  
2 in Exhibit 7; is that correct?

3 A. With the idea of 4.16, 4.17, 6.1,  
4 6.2, yes.

5 Q. Thank you. I think we should be fair  
6 to all and not spend greater time on that manual at  
7 this time in point until we all have copies.

8 We will move on. We will move on, but  
9 stay with the same Exhibit 7. We are now talking about  
10 declared surpluses, the other matter that arose from  
11 yesterday and this morning's discussion.

12 MR. FREIDIN: What page is that?

13 MR. CASTRILLI: Oh, sorry. We are  
14 looking at pages 83 and 84 of Exhibit 7, it is table  
15 4.1 -- sorry, 4.16.

16 Q. Do you have the page, Dr. Osborn?

17 DR. OSBORN: A. Yes, I do.

18 Q. Would you confirm for me, as we did  
19 earlier, that this table establishes that licensees are  
20 expected to declare any surplus and, on this particular  
21 table, it is on an area basis; is that correct?

22 A. Yes, the tables are on an area basis  
23 and the bottom line of the table indicates the declared  
24 surplus.

25 Q. Thank you. Can you also confirm for

1 me as well that all licensees are required to estimate  
2 their surplus volume?

3 And for the purposes of making this  
4 graphically clear, I refer you to Table 4.1 -- sorry,  
5 4.18.1 at pages 89 and 90 of Exhibit 7. You see the  
6 heading there for the table, Forecast of Wood  
7 Utilization by Licensee?

8 A. Yes, the Table 4.18.1, as indicated,  
9 would show by licensee in that left-hand column what  
10 was the requirement for cost utilization requirement,  
11 the volume requirement, licensee, by licensee, by  
12 licensee. A summation of those requirements ends up in  
13 the value total planned volume.

14 Q. So what that means is they are  
15 required to estimate their surplus by volume; is that  
16 correct?

17 A. They are required to estimate their  
18 requirements by volume.

19 Q. Well, on the last line in that column  
20 is an estimated surplus volume. What does that mean?  
21 Doesn't that mean it is the estimated surplus volume of  
22 the declared surplus which is in hectares?

23 Dr. Osborn, there is an explanation of  
24 this on page 90, Item 5?

25 A. Thank you.

1                   Q.   Heading:   Estimated -- Item 5:  
2   Estimate Surplus Volume - enter the difference between  
3   total planned volume and estimated available volume.

4                   A.   Now, I was looking for what they  
5   subtracted from. The summation of the total planned  
6   volume obviously is just as a summation of the  
7   licensees' requirements.

8                   I was trying to find on that table from  
9   what I subtract it, that's all. Because there is a  
10   total volume - and I am not sure exactly where that  
11   comes from not going through this manual - from which  
12   to subtract that to end up with the estimated available  
13   volume.

14                  Q.   Do you want to take a moment to  
15   confirm your understanding?

16                  A.   Yes, okay. If I look at this, the  
17   left-hand column, you add up for the licensees the  
18   total planned volume, a list of their requirements.

19                  So we have the total planned volume as a  
20   summation of the licensees' requirements, if I  
21   understand this correctly, and the estimated available  
22   volume, according to the footnote on page 90, is the  
23   estimated data volume by species that comes from  
24   available for harvest given in Table 4.16.

25                  Q.   And the estimated surplus volume is

1       what?

2                   A.   The arithmetic difference.

3                   Q.   So it is the estimated surplus for  
4       the declared surplus; is it not?

5                   A.   Run that by me again slowly, sorry?

6                   Q.   It is the estimated surplus by volume  
7       for the declared surplus which is in hectares; is that  
8       right?

9                   Mr. Armson, can you help us?

10                  MR. ARMSON:   A.   It is estimated, as I  
11       understand it, taking into account the subtraction of  
12       the volume that was in the area for reserves - I make  
13       that point, I think that is a point - and these are  
14       totals for the areas, that's my understanding.

15                  Q.   So the answer to my question is yes?

16                  DR. OSBORN:   A.   On page 90 it says under  
17       Item 4:

18                         "The estimated available volume is the  
19                         volume by species for the available for  
20                         harvest area in 4.16."

21                         And whatever the volume is on those  
22       hectares provides the volume from which one subtracts  
23       the licensee's requirement, being cognizant of the  
24       comment about the area in reserves.

25                   Q.   Yes, and when we are referring to



1 4.16, 4.16 is the table that talks about the last line,  
2 Item 7, declared surplus in hectares, and Table 4.18.1  
3 is talking about the same thing when it is talking  
4 about estimated surplus volume; is it not?

5 It is talking about the same area, except  
6 it is now describing it in volume, the volume for that  
7 declared surplus area?

8 A. Again, I think Mr. Armson explained  
9 that the declared surplus was a value that was not  
10 exactly the same as the arithmetic value given on Table  
11 4.16 of estimated surplus.

12 I recognize that on Table 4.16 declared  
13 surplus, declared surplus is a value that may or may  
14 not be arithmetically exactly the same as estimated  
15 supply that is given on 4.16.

16 Q. Well, it would never be the same  
17 number because one is in hectares and one is in volume?

18 A. No, no, no. Table 4.16 is all in  
19 area.

20 Q. That's right, Table 4.16 is area.

21 A. And I am talking about -- on Table  
22 4.16, Table 4.16, Item 6 says: Estimated surplus  
23 deficit as an arithmetic difference. And there is an  
24 explanation by Mr. Armson that the declared surplus may  
25 or may not be exactly the same as that arithmetic

1 difference.

2 So just -- they are not exactly  
3 necessarily the same thing that you are trying to lift  
4 from one place to another.

5 Q. All right. But when you look to Item  
6 7 on Table 4.16 it says: Declared surplus -- this is  
7 page 84 of the evidence -- of Exhibit 7.

8 "Declared surplus - if the surplus is  
9 estimated above, make the same entry as  
10 declared surplus, unless a case is  
11 presented for not declaring a surplus."

12 A. Right, and that's what I am referring  
13 to.

14 Q. Fine. That declared surplus figure  
15 in hectares is then the amount that is -- not the  
16 actual number, but the volume from that declared  
17 surplus area is what we find placed in Table 4.18.1  
18 under estimated surplus; is that right?

19 A. As I understand it.

20 Q. Thank you.

21 MR. CASTRILLI: Mr. Chairman, this would  
22 be an ideal place to break.

23 MR. MARTEL: Can I ask a question? Can  
24 you calculate from the area surplus, declared surplus,  
25 can you translate that into actual volume?

1 DR. OSBORN: This was a question - given  
2 all the caveats that we have been through, sir, about  
3 the FRI--

4 MR. MARTEL: Okay.

5 DR. OSBORN: --yes.

6 MR. CASTRILLI: Thank you.

7 THE CHAIRMAN: Okay. The Board will  
8 break for 20 minutes.

9 ---Recess taken at 9:47 a.m.

10 ---Upon resuming at 10:20 a.m.

11 THE CHAIRMAN: Thank you. Be seated,  
12 please.

13 MR. CASTRILLI: Q. Dr. Osborn,  
14 continuing with Exhibit 7, the manual and, again, page  
15 141.

16 The third paragraph we were speaking of  
17 earlier, this is with respect to allowable versus  
18 planned cuts. The last sentence in that paragraph  
19 indicates that annual reports are not part of the  
20 management plan.

21 Now, I presume that means that tables,  
22 for example, Table 6.1, 6.2, 6.3 that you referred to  
23 earlier in the evidence are not part of a management  
24 plan that -- are not part of the management plans that  
25 you may have been speaking of to this point; is that

1 right?

2 DR. OSBORN: A. I read that statement to  
3 say that the document; that is, the plan, is not in  
4 that document; that is, the plan where you will find  
5 the annual report. That's how I read that statement.

6 I just would like to make the observation  
7 that I have not had the benefit of going through the  
8 Ministry's training session and working through  
9 examples on how to use this manual. And that previous  
10 testimony I gave was a deliberate effort not to throw  
11 up my hands and say: I don't know, I have not done  
12 this, but to walk through, in essence, much like the  
13 Board, seeing this for the first time, how easy is it  
14 to go from table to table.

15 Q. That's fine. If Mr. Armson can  
16 answer the question, I would be content.

17 MR. ARMSON: A. Well, I am afraid I am  
18 in the same boat as Dr. Osborn. I was not basically  
19 involved in the writing of this manual nor was I --  
20 have been involved in the workshop. So I read it  
21 basically as Dr. Osborn said, in somewhat the position  
22 of the Board.

23 THE CHAIRMAN: Do you want Mr. Freidin to  
24 testify?

25 MR. CASTRILLI: I have this feeling that



1 Panel 15 is going to get roped in to being responsible  
2 for responding to that question.

3 MR. FREIDIN: That wa always the intent.

4 MR. CASTRILLI: That was always the  
5 intent, right.

6 MR. FREIDIN: I don't know whether this  
7 may shorten it. I hate to think that Mr. Castrilli's  
8 cross-examination will form any part of our cases, but  
9 I am not encouraging him to go through this, but we are  
10 planning to do this in Panel 15.

11 MR. CASTRILLI: Okay. I hesitate to  
12 leave it at that because we could be talking about 12  
13 months from now, optimistically, but because it relates  
14 to the issue of planned versus actual- which is the  
15 subject matter of this panel - with the Board's  
16 indulgence, I would just like to ask one or two more  
17 questions with respect to it.

18 Q. I take the sentence to read the way  
19 you read or interpreted it, that it is not physically  
20 part of the plan. Are the annual reports physically at  
21 the same place as the plan?

22 DR. OSBORN: A. Yes.

23 Q. Okay.

24 THE CHAIRMAN: Meaning at the management  
25 unit level -- in the management unit?

1 DR. OSBORN: Geographically, yes, they  
2 are in the district office. I was even going beyond  
3 that, I imagine they are literally adjacent, physically  
4 on a file shelf.

5 MR. CASTRILLI: Q. Do we know, or do  
6 either of you know or how extensive are the reports in  
7 comparison - I am speaking now in volume - in  
8 comparison to the plan?

9 I mean, is it physically impossible to  
10 construct a brad large enough to include the annual  
11 reports to the management plan, or is there some other  
12 reason why the annual reports are not part of the plan;  
13 if you know?

14 DR. OSBORN: A. Okay, that's very easy  
15 to understand, that last question. A plan is a plan, a  
16 written statement of intent, okay. An actual, a record  
17 is what took place. Now, the two documents are needed  
18 to make the comparison, no doubt about it, but if you  
19 want the plan, you get the plan of intent.

20 And so in a very logical sense you have a  
21 document that says: This is what I intended to do.  
22 You then have a second document that literally goes  
23 with that for analysis that says: This is what I did.

24 And that is the standard way of doing  
25 business, not only timber management, but any other

1 form of management.

2 Q. Okay. When I say annual report, I  
3 presume then that the report is -- the annual report is  
4 more than simply a sheet, like another table; it also  
5 contains text, again speaking of the plan versus actual  
6 now. I presume that since we have Table 6.1, 6.2, and  
7 6.3, they are tables to the...

8 I am now no longer clear whether in fact  
9 the annual reports that are referred to in 6.1, .2 and  
10 .3 are simply tables or in fact also documents with  
11 text attached along with the tables.

12 If you know I would appreciate the  
13 answer.

14 A. No, I don't know, I am sorry, again,  
15 not seeing the format exactly of: This is an annual  
16 report.

17 MR. CASTRILLI: Okay. Mr. Chairman, I  
18 think all things considered, probably I am content to  
19 wait until Panel 15. I think I am not going to get any  
20 further at this stage dealing with that. I just  
21 thought it might help.

22 Q. Now, we were also speaking before the  
23 break about estimated surpluses and declared surpluses.  
24 And would you agree with me, if the Ministry did not  
25 have such information with respect to estimated surplus

1 volume, there again would be non-compliance with the  
2 Timber Management Planning Manual in light of Table  
3 4.18.1?

4 DR. OSBORN: A. Given you can fill in  
5 the numbers for 4.18.1, you have the answer to your  
6 question.

7 Q. Which is yes?

8 A. Yes.

9 Q. And would you agree that if the  
10 Ministry did not have this information on estimated  
11 surplus volume, it could not effectively market wood?

12 A. By market wood, do you mean issue a  
13 licence?

14 Q. I mean market wood in the economic  
15 sense.

16 A. All right. And I ask, because the  
17 licence is issued on an area basis, that is really why  
18 I asked the question.

19 And we are back to knowing the area  
20 required, knowing the area that is surplus, issuing the  
21 licence on the area that is surplus, because the  
22 licence is issued on an area basis. And that is the  
23 mechanism that sets up "the marketing of wood."

24 Q. All right. My question was with  
25 respect to estimated surplus volumes on the declared

1 surplus areas.

2 A. That is why I asked the question  
3 because it is not the volume that is -- that we  
4 licence, it is area that we licence.

5 Q. But if you do not know the volume,  
6 how do you economically know what and whether you can  
7 market any wood?

8 A. Mr. Martel asked me before the break:  
9 Can I estimate the volume on the surplus area, and I  
10 said yes.

11 Q. Right, and my question is: If you  
12 don't have that information you can't market wood, and  
13 your answer is...?

14 A. If we don't have that information,  
15 that volume information, you can still draw the licence  
16 boundary, issue the licence. For that licensed area  
17 you can make an estimate of what is within the licence  
18 as to the volume estimate, which is the answer I gave  
19 Mr. Martel.

20 Q. Perhaps we can shorten this up.  
21 Could I ask you to refer to Exhibit 61, page 80. This  
22 is the Woodbridge Reed Report, as you are aware.  
23 Paragraph 3 of the Conclusions of the report --

24 THE CHAIRMAN: Is that 80 or 8?

25 MR. CASTRILLI: Oh, page 80, eight zero.



1 THE CHAIRMAN: Thank you.

2 MR. CASTRILLI: Q. Paragraph 3, the  
3 first two sentences in that paragraph. The authors  
4 conclude:

5 "The wood resource is underutilized,  
6 especially hardwoods. Much of the  
7 economically available wood appears  
8 committed to the existing industry  
9 through FMAs. Furthermore, a limited  
10 sampling of FMAs indicates significant  
11 underutilization of their forecast wood  
12 demand. Economic excessibility is an  
13 issue of unknown dimensions which is a  
14 function of limited inventory data."

15 Do you agree with that assessment?

16 DR. OSBORN: A. I don't know what basis  
17 they made the observation.

18 For example, let's take the first part of  
19 it, underutilized. Are they inferring that the  
20 hardwoods out there are not being used at this point in  
21 time for which there may or may not be any market?

22 I am not quite sure in what context the  
23 statement was made.

24 Q. Let's look at page 17 of the same  
25 exhibit. Beginning -- my voice is slowly dissolving.

1 THE CHAIRMAN: Do you want the day off?

2 MR. CASTRILLI: I don't know how we would  
3 manage that.

4 Q. Under the heading: Wood Resource  
5 Position, the report indicates -- perhaps, Dr. Osborn,  
6 if I could ask you to read that paragraph.

7 DR. OSBORN: A. Certainly.

8 "There appears to be significant  
9 underutilization of northern Ontario's  
10 wood resource, at least the hardwood  
11 species. WRA has estimated northern  
12 Ontario's total harvest potential on the  
13 basis of current maximum allowable  
14 depletion and contrasted this with  
15 current harvest. Making some allowance  
16 for other losses, fire, insects and  
17 disease, the apparent surplus hardwood  
18 amounts to almost two-thirds of the  
19 potential harvest. For softwood, a  
20 similar analysis suggests a 25 per cent  
21 surplus. Figures 3.10 and 3.11 depict  
22 this analysis on a regional basis for  
23 softwood and hardwood respectively."

24 Q. Now, we are going to come back to the  
25 figures which appear at page 18. I would like to turn

1 to page 19. Can I also ask you to read the first  
2 paragraph into the record on that page and the last  
3 paragraph on that page.

4 A. Page 19 states:

5 "The analysis of fiber surplus however is  
6 an inexact undertaking. The potential  
7 harvest derived from MAD data must  
8 contend with volume per unit area  
9 translations which are highly variable.  
10 The major variables include tree  
11 utilization and broomage factors. Many  
12 MAD estimates are also based on  
13 accelerated depletion by virtue of the  
14 older age-class distribution of the  
15 forest on most units. This results in a  
16 harvest potential that is not sustainable  
17 indefinitely."

18 Q. Now, the last paragraph on that page.

19 A. The bottom paragraph on page 19  
20 reads:

21 "The analysis of forest management  
22 agreement (FMA) performance reviews  
23 further reveals the potential for greater  
24 utilization of the resource base. A  
25 review of eight individual FMAs by OMNR

1 reveals an actual harvest that was only  
2 58 per cent of the forecasted harvest."

3 Q. Thank you. Now, could you read the  
4 note under Figure 3.12?

5 A. Notes, on page 20:

6 "Declared surplus is the MAD less the  
7 company's forecast five-year harvest.  
8 this surplus is available for direction  
9 to third party operators."

10 Q. And now could I ask you to read  
11 what -- why don't I read on page 21, the seventh line  
12 down, the first paragraph, it says:

13 "On FMA units the tenure on declared  
14 surplus to third party operators does not  
15 appear to be well understood."

16 Now, Dr. Osborn, as you recall from my  
17 initial questions to you yesterday regarding third  
18 party licensees on FMA lands arising from your  
19 paragraph 28 in your evidence, you said that FMA  
20 holders and third party licensees conduct virtually all  
21 timber management activities on FMA lands.

22 Do you recall that testimony?

23 A. Yes.

24 Q. Now, would you agree with me that the  
25 thrust of what the authors of the Woodbridge Reed

1 report are indicating on page 80 and the portions of  
2 pages 17 through 21 that I asked you to read into the  
3 record, is that FMA areas are not being used to the  
4 fullest and that large areas with a declared surplus  
5 are being tied up; that is, they are not being licensed  
6 to third parties.

7 Isn't that the thrust of those pages?

8 A. That is the statement that is made,  
9 but with the caveat that is not made - and it is very  
10 fascinating given the authors of the report, given the  
11 comments of Dr. Baskerville - you cannot peddle  
12 something for which there is no market, to use a  
13 cliché.

14 The lack of licensing for the supposed  
15 difference between the maximum allowable depletion and  
16 the demand, that comment made about the  
17 underutilization of that surplus, is partly a reaction  
18 to: There isn't a market for the material. You  
19 cannot -- there is no value in licensing something for  
20 which there is no market.

21 So let's come back to the comment of the  
22 underutilization of the FMA holder--

23 Q. Well, let's --

24 A. --of the hardwoods, because those  
25 species, that hardwood species in which the comment in



1 Woodbridge Reed is made, if there is no market for that  
2 species, the hardwoods within the softwood stands, then  
3 your having a license for it doesn't do you an awful  
4 lot of good. Having it in the FMA licence and then not  
5 cutting it is because there is no market for it.

6 Q. I think they are saying more than  
7 that, Dr. Osborn, would you not agree? Let's look at  
8 page 21 for example it says:

9 "The tenure on declared surplus to third  
10 party operators does not appear to be  
11 well understood."

12 That is not a comment about market, Dr.  
13 Osborn, it seems to me to be saying, in no uncertain  
14 terms, that FMA licence holders do not want third  
15 parties cutting their declared surplus; isn't that  
16 right?

17 A. I don't read it that way, sir. In  
18 fact, the evidence you are going to get provided with  
19 in terms of the volume cut by prime licensee and by  
20 third part operator will indicate, since the FMAs have  
21 been signed, there has been an increase in the amount  
22 of trees cut by other than the prime licensees to  
23 indicate that since the FMAs have been signed, other  
24 people have been cutting those species that you talk  
25 about being underutilized.

1                   Q. I guess hopefully the statistics will  
2 speak for themselves.

3                   Let me just put a hypothetical to you.  
4 If it was the case that declared surplus areas are not  
5 being harvested -- are not being licensed to third  
6 parties and, therefore, are not being harvested, would  
7 you agree with me that that could adversely influence  
8 the management of the forest, including regeneration  
9 efforts?

10                  A. Not necessarily.

11                  Q. Well, would it be fair to say that if  
12 you always have a surplus of wood, worrying about the  
13 success of regeneration efforts becomes secondary?

14                  A. When you say secondary, I am not sure  
15 secondary to what? The concern about the regeneration  
16 and its success and the amount and what is happening to  
17 it, is there.

18                  Q. It becomes secondary to harvesting?

19                  A. There is no one or the other, sir,  
20 you deal with the whole harvesting, regeneration,  
21 sustention of the forest, management of the whole as  
22 one, not in separate little compartments.

23                  I thought the evidence sort of clearly  
24 showed that this is providing industry with wood today  
25 and wood tomorrow. The wood tomorrow comes from the

1 management of the whole, not separating it into  
2 compartments.

3 Q. I guess we will have to wait and see  
4 what the statistics show us.

5 THE CHAIRMAN: Mr. Castrilli, just going  
6 back to that hypothetical. We do not know much about  
7 the market conditions at this point in the evidence,  
8 but if there was a market out there, would there not be  
9 less of the surpluses?

10 I mean, would not the larger FMA holders  
11 be selling -- harvesting and selling that wood and,  
12 therefore, there would be less to fall into the  
13 declared surplus category and, therefore, less to  
14 licence to third party holders in the first place?

15 I mean certainly if there are markets,  
16 would they not apply to the larger companies just as  
17 much as to the smaller third party licensees?

18 MR. CASTRILLI: Mr. Chairman, the thrust  
19 of my concern, and the concern of my clients, is that  
20 this whole issue has implications for the economy of  
21 northern Ontario.

22 If you have a surplus that exists but  
23 third party licences are not being issued, that means  
24 simply that new companies have no incentive to start up  
25 because they have no place to start up.

1                   And this Board is charged with looking at  
2           the environmental, social and economic implications of  
3           timber management in this province, and this issue  
4           bears very directly on that.

5                   THE CHAIRMAN: But is not the total  
6           market for wood sort of as one big whole, divided up  
7           between large companies and small companies -- and I  
8           guess what I am querying is: Is there a place for the  
9           smaller companies in a large way; if the market isn't  
10          there for the larger companies to take up more of the  
11          piece of it?

12                  MR. CASTRILLI: Well, I don't want to  
13          give evidence--.

14                  THE CHAIRMAN: No.

15                  MR. CASTRILLI: --but you will recall  
16          some of my questioning of Mr. Armson in the second  
17          panel had to deal with other aspects of this report and  
18          whether one responds to market demand or one creates  
19          markets, and that is part and parcel of what Woodbridge  
20          Reed is talking about here.

21                  THE CHAIRMAN: Okay. Well, I am sure the  
22          marketing side of it will be dealt with later.

23                  MR. ARMSON: Mr. Chairman, with your  
24          permission, perhaps I could offer a few words of  
25          clarification.



1                   First of all, the declaration of surplus,  
2                   that process was initiated with the FMAs for the very  
3                   purpose of quantifying the amount of wood that could be  
4                   available to either the FMA holder or, if it was  
5                   declared, some other entrepreneur.

6                   In many instances, the FMA holder does  
7                   not use, the plant and the products that are produced,  
8                   do not necessarily would be based on the full range of  
9                   species that exist, and this why many years ago the  
10                  Ministry was involved in third party licensing totally  
11                  independent of the FMAs.

12                  When a surplus is declared, if the FMA  
13                  holder can't find some other entrepreneur who is  
14                  willing to come in and then place that before the  
15                  Minister, the Minister then is in the position of, in  
16                  fact, having other entrepreneurs come, or in fact as  
17                  has been indicated, perhaps going out to look for  
18                  entrepreneurs.

19                  The whole point of this is that  
20                  entrepreneurs can have access to that, but if the  
21                  species that are in surplus or the products that come  
22                  from those species cannot be economically dealt with by  
23                  an entrepreneur, there is a problem.

24                  I think the inference has been that the  
25                  FMA holder in terms of the declared surplus holds back



1 on that and that is just not so and the agreements are  
2 very specific about the Minister's responsibility in  
3 that regard.

4 MR. MARTEL: Are the surpluses created  
5 then because there has been a tendency to not move into  
6 new product lines, as the Woodbridge Reed report says,  
7 or to utilize certain species by updating to new  
8 processes?

9 MR. ARMSON: Mr. Martel, the industry has  
10 moved. I think that, without getting into the report  
11 and all the aspects of it, the evidence historically  
12 and I think is that technologically the industry has  
13 moved, either in terms of creating a more efficient  
14 production of an existing product, such as pulp or  
15 newsprint, a commodity.

16 The Woodbridge Reed report deals with  
17 other products, so-called higher value added, and that  
18 marketplace may or may not be there for a company that  
19 is producing a commodity. Commodities are still going  
20 to be a major part of the production, I believe, from  
21 northern Ontario, one way or the other.

22 But there are areas where that has  
23 developed, the Sault Ste. Marie mill of the old Abitibi  
24 company is an example. The degree and the way in which  
25 that flows by an entrepreneur in Ontario is obviously

1 something that they take into account in their overall  
2 business and so on.

3 And I don't think that, in answer to your  
4 question, that in the Woodbridge Reed Report the sort  
5 of basis of the industry and the industry itself and  
6 how it dealt with it has been fully brought -- it  
7 doesn't show in that report. Let me put it that way.

8 MR. CASTRILLI: Q. Can either of the  
9 witnesses advise the Board on what is meant at page 21  
10 of Exhibit 21 when the authors say:

11 "The tenure on declared surplus to third  
12 party operators does not appear to be  
13 well understood."

14 These authors were under contract to the  
15 Ministry of Natural Resources to produce a report with  
16 respect to the terms of reference set out at the  
17 beginning of the report.

18 They obviously were charged with  
19 investigating this issue among others and they conclude  
20 that it is not well understood, and their report is  
21 dated November, 1987.

22 MR. ARMSON: A. Well, Mr. Castrilli,  
23 they don't say understood by whom. The question is:  
24 Who is it not understood by? The word tenure as used  
25 in that respect is not, I would say, an accurate use of

1 the word tenure.

2 Q. Did you review -- well, I am not sure  
3 who reviewed the report, but actually this report was  
4 provided to you as Director of the Action Plan.

5 Did you not review the draft, did you not  
6 ask the authors what they meant by that sentence?

7 A. I had some questions of the authors,  
8 yes, and I had some concerns about it, but it was their  
9 report, I must say.

10 Q. All right. So it is your testimony  
11 they are saying: Does not appear to be well understood  
12 by the authors of the report, or not well understood by  
13 the Ministry?

14 A. I don't --

15 MR. FREIDIN: Why don't you call  
16 Woodbridge Reed? I mean...

17 MR. CASTRILLI: They are your -- it is  
18 your authors, why don't you call them?

19 MR. FREIDIN: I will put in my case the  
20 way I see fit, Mr. Castrilli.

21 THE CHAIRMAN: Okay, gentlemen. I  
22 realize this is maybe one of the first skirmishes, but  
23 let's keep the editorializing to a minimum.

24 MR. CASTRILLI: Q. I don't have an  
25 answer to the question.

1                   MR. ARMSON: A. I am very unclear. I  
2                   have no idea who they were referring to as being  
3                   misunderstood. I don't know.

4                   MR. CASTRILLI: Fine.

5                   Mr. Chairman, we will wait until we get  
6                   the data on surpluses to take up this issue further.

7                   Can I ask you to take out Exhibits 56 and  
8                   53, it is the FRO 86 and Panel 2 evidence.

9                   The context for this, Mr. Chairman, is  
10                  the next interrogatory. (handed)

11                  THE CHAIRMAN: Exhibit No. 121.

12                  ---EXHIBIT NO. 121: Response by MNR to Interrogatory  
13   Question No. 8 posed by CELA

14                  MR. CASTRILLI: Q. Perhaps, if you  
15                  haven't already, I would ask you to take a moment to  
16                  read it to yourselves before I proceed to ask you  
17                  questions about the interrogatory.

18                  DR. OSBORN: A. I wrote it, Mr.  
19                  Castrilli.

20                  Q. I was referring to Mr. Armson.

21                  Now, gentlemen, I would just like to take  
22                  you to the bottom of what is now Exhibit 121 in the  
23                  First page. The figure there resulting in a total  
24                  production forest of 30,384,231 hectares which is based  
25                  on Exhibit 56, the FRO 1986.

1                   You note on the next page, it will be  
2                   page 2 of Exhibit 121, that these numbers are contained  
3                   in Tables 2 and 3 of the 1986 FRO. I would just like  
4                   like to refer you to Table 3 at page 20 of Exhibit 56.

5                   Now, with my trusty calculator -- Table 3  
6                   is entitled: Area of the Productive Forest of Ontario  
7                   by Ownership as of 1985.

8                   Now, with my trusty calculator I was able  
9                   to determine that the figure of 30,384,231 hectares is  
10                  arrived at by adding - if you look at the top part of  
11                  the table itself - adding the figures 2,052,668  
12                  hectares from Crown recreation under the heading of  
13                  Production Forest Reserve Area, and the 28,331,563  
14                  hectares under the heading Production Forest Area.

15                  In other words, we are adding sideways;  
16                  is that correct?

17                  MR. FREDIN: Do you need a calculator,  
18                  Dr. Osborn?

19                  DR. OSBORN: No, I am trying to follow  
20                  Mr. Castrilli's logic at the moment.

21                  MR. CASTRILLI: I have just found my  
22                  calculator.

23                  DR. OSBORN: The calculator I don't need,  
24                  I am just interested in the logic for the moment.

25                  MR. CASTRILLI: Q. All right. Well, why



1 don't you just add the numbers together to see what you  
2 get.

3 DR. OSBORN: A. Run the numbers -- first  
4 of all, Table 3?

5 Q. Yes, Table 3.

6 A. Okay. Table 3, total area of Crown  
7 land?

8 Q. Why don't I show you, this might be  
9 faster. (indicating)

10 A. I get 30,300 and something. Without  
11 are not worrying about the arithmetic, 30,300 and  
12 something.

13 Q. How do you get 30,000?

14 A. 28 and 2 usually makes 30. 28.3 and  
15 2.0.

16 THE CHAIRMAN: It is million; isn't it?

17 MR. CASTRILLI: Q. It is millions; isn't  
18 it?

19 DR. OSBORN: A. This is area in  
20 hectares. It is 28-million and 2-million.

21 Q. That's right. Don't you get  
22 30,384,231 hectares, the number you advised me in the  
23 interrogatory is the result of total production forest  
24 in Ontario?

25 A. On Crown land under Crown, ownership

1 1.

2 Q. So would you agree with me that the  
3 way you get the number you gave me in the interrogatory  
4 is by adding those two numbers sideways?

5 A. Yes.

6 Q. Thank you. Now, from that number,  
7 you would then look at the -- we are now looking at  
8 Exhibit 121 again where, under your response to Item  
9 (iii), you have a figure resulting in a production  
10 total of 22,471,000 hectares. That's from Mr. Armson's  
11 report of 1976.

12 A. On page 175, Panel 2 evidence.

13 Q. Yes, that's right. So that we get a  
14 total, if we subtract the 22 from the 30,  
15 approximately -- well, we get exactly 7,913,231  
16 hectares; is that correct? Will you accept that  
17 subject to verification?

18 A. Yes.

19 MR. CASTRILLI: Thank you.

20 MR. FREIDIN: What was the figure?

21 MR. CASTRILLI: 7,913,231 hectares, if  
22 you subtract the 22 plus million hectares from the 30  
23 plus.

24 Q. Now, could either of you gentlemen  
25 advise the Board what that 7.9-million hectare figure

1 represents?

2 DR. OSBORN: A. Yes, sir, I will. You  
3 spent considerable time in Panel 2 asking Mr. Armson  
4 about this. The answer is given in the interrogatory.

5 If you look at the answer under the table  
6 dealing with the figures as of 1976 - so about seven or  
7 eight lines up from the bottom of the page - it states:

8 "Mr. Armson used figures given to him by  
9 forest resources staff in 75-76 which  
10 were meant to be assumptions about  
11 removals from productive forest in the  
12 year 2020."

13 The numbers that were used in 1976 were  
14 an approximation of: What do we estimate the available  
15 land base for commercial forest production to be by the  
16 year 2020.

17 So in 75-76 we made some estimates of,  
18 from the total, how do we net that down to an available  
19 base. That was the intent of the data that was  
20 provided and was quoted by Mr. Armson.

21 So we are looking at, from today, what do  
22 we expect to have available as a stable land base in  
23 the year 2020. And, as a result, some of the  
24 estimates, again that you asked about in Panel 2  
25 describing parks, park reserves, fragile sites, all

1       were estimates made in 75-76 of what might be some of  
2       the areas removed from the productive initial start.

3               So that the data that was used in 75-76  
4       were estimates of what might the net base be by 2020.  
5       The data used that you are quoting to compare with in  
6       the 1986 statistics, are the actual values as found  
7       today of what have we got.

8               Q.   That's right.

9               A.   And surprise, surprise, the estimates  
10       of what we thought what might be a park aren't exactly  
11       the number we have today of what is a park.

12              Q.   That is a big surprise, it is an  
13       8-million hectare surprise.

14              Is it your testimony that was the parks  
15       and reserves? Why is there an 8-million hectare  
16       discrepancy between Mr. Armson's figures of what  
17       constitutes the production forest and the figures from  
18       FRO 86, notwithstanding the '76 figures were an  
19       estimate.

20              How could the estimate be that far off?

21              A.   Mr. Castrilli, if you look at the  
22       area for park and park reserve, the figure quoted is  
23       4.21-million hectares. That was the estimate made in  
24       1975-76 of what did we think may be taken out of park  
25       and park reserves from the date the demos were put

1 together until the year 2020. It was an estimate of  
2 what might come out.

3 Q. Pretty big estimate and off by quite  
4 a lot; was it not, in 1976?

5 A. It was an estimate, it was an  
6 estimate made with the best knowledge that was  
7 available. We are now in 1986, I am in no position to  
8 know by the year 2020 what the total area of parks in  
9 this province will be.

10 When we come to the year 2020 and we make  
11 the comparison, then I will be in a better position to  
12 describe whether the estimate was off or not.

13 Q. Now, in looking at the interrogatory  
14 response, Item (ii) on the page, Exhibit 121, let's  
15 look at the question first.

16 Item (ii) asked, arising from Item (i),  
17 we said:

18 "Do these figures represent the same  
19 definition of production forest..."

20 and the second question was:

21 "If so, what accounts for the  
22 11-million hectare increase? "

23 Item (ii), your response, said: N/A, is  
24 that not applicable?

25 A. Given it was a follow-on for whether



1 or not there was a difference in the definition or the  
2 sameness in the definition of production forest between  
3 the two sets of numbers. And the answer to the  
4 question of: Were they both describing the same kind  
5 of production forest was, no and, therefore, the second  
6 question did not apply.

7 Q. So your testimony is: N/A meant see  
8 Item (iii)?

9 A. No, the testimony in Item (ii) that  
10 says not applicable was the follow-on to question 1  
11 asking whether they were the same definitions of  
12 production forest and, as they were not, then the  
13 second half of the question dealing with what did it  
14 mean, if they were the same, was not applicable because  
15 they weren't the same, as is explained in the answer.

16 Q. What accounts for the difference? We  
17 said 11-million and you said: No, we are wrong, it is  
18 really 8-million. You never answered the question why  
19 was it 8-million.

20 A. Sir, I did not say the difference was  
21 8-million.

22 Q. Well, isn't it 8-million if you  
23 subtract 22 from 30?

24 A. Oh, arithmetically, yes.

25 Q. Well, what accounts for the 8-million

1       increase between 1976 and 1986? The estimates in 1976  
2       were what?

3                   A. Predictions of what might be the base  
4       netted down by the year 2020.

5                   Q. They were inflated predictions;  
6       weren't they?

7                   A. They were predictions --

8                   Q. Inflated predictions of the  
9       depletions; is that correct?

10                  A. No. They were predictions made in  
11       75-76 of the best estimates of that time of what might  
12       be the other forms of land uses that would net the area  
13       down to the value 2020. That's all they are.

14                  Q. Let's follow this up with the next  
15       interrogatory.

16                  THE CHAIRMAN: Exhibit 122.

17       ---EXHIBIT NO. 122: Response by MNR to Interrogatory  
18                               Question No. 9 posed by CELA.

19                  MR. CASTRILLI: Q. I presume you both  
20       had an opportunity to read the interrogatory again.  
21       Dr. Osborn, no doubt you wrote this?

22                  DR. OSBORN: A. Correct.

23                  Q. I ask you to first look to the  
24       Question 9, Item (iii) question. The question we asked  
25       was:

1 "What is the definition of recreation  
2 reserve and where are these reserves  
3 located?"

4 Your answer was as follows, in Item (iii)  
5 at the bottom of the page:

6 "Recreational reserves were a  
7 classification in the FRI for a period of  
8 time in the 1970s. They were primarily  
9 400 foot-wide strips around major rivers  
10 and lakes as well as deer wintering areas  
11 and roadside strips. The procedure of  
12 classifying areas as recreation reserves  
13 was followed on very management units  
14 before it was stopped. The areas that  
15 were classified as such are still in the  
16 FRI data for these management units and  
17 will remain so until the units are  
18 re-surveyed."

19 Now, can you advise the Board what will  
20 happen upon re-classification of the areas known as  
21 recreation reserves?

22 A. As indicated when I described the  
23 ownership classification in the forest resources  
24 inventory, the ownership classification that is on page  
25 186 of the evidence of Panel 3, the list of ownerships

1 are given on page 186, and in there, Code No. 7 was  
2 reserves.

3 When I described those ownerships I  
4 described essentially the statement you have quoted in  
5 122, I made a comment that when the FRI is re-done for  
6 those units, that particular designation is now no  
7 longer in the FRI at the time the FRI is done.

8 So to answer your question: What will  
9 those things be coded as next time round, they will  
10 coded according to what is found on the area in terms  
11 of species, stand description, the way that Exhibit 85  
12 so shows.

13 Q. Let's look at Table 3 again of  
14 Exhibit 56.

15 A. Exhibit 56?

16 Q. I am sorry, Exhibit 56 is the FRO  
17 '86. Just so you are clear on which -- I think you are  
18 clear where on that table I am referring to. The  
19 recreation reserve (7).

20 A. Correct, the Ownership Code on page  
21 86.

22 Q. Right, and it is that horizontal  
23 series of numbers across the page. It is going to in  
24 future be -- recreation reserves in future are going to  
25 be re-classified out of existence.

1                   That is your testimony; is it not?

2                   A. The FRI will not classify them at  
3                   this point in time unless there is advance notification  
4                   of exactly what areas are to be treated that way, which  
5                   is most unlikely that that is agreed to before the FRI  
6                   is completed, which was the reason why they were taken  
7                   away back in the early 70s.

8                   Q. And, for example, we are talking  
9                   about a total area of 165,606 hectares; is that right?

10                  A. That is the area classified in the  
11                  inventory database at the moment under Ownership 7,  
12                  yes.

13                  Q. Could you advise the Board whether  
14                  the recreational reserve lands will be moved into the  
15                  production forest category and be available for  
16                  harvest?

17                  A. They will be moved into either the  
18                  production or the protection forest, much as Table 3  
19                  shows, there is some area in that 165,000 that was  
20                  classified originally as protection forest.

21                  Those areas will be classified into the  
22                  appropriate site class, they may well be in the  
23                  production for protection forest and they may be  
24                  eligible for inclusion in the objectives of management.

25                  Whether or not they will be available for



1 harvest is a management decision and that is really why  
2 the FRI has not tried to presuppose management, that  
3 was the difficulty with the original idea. They will  
4 be sent to the unit forester, they will be decided on  
5 as to what will actually be the fate of operations on  
6 those hectares, the same as any other hectares.

7 Given where they were located, given the  
8 description given on Exhibit 122, they may well be  
9 managed for the same sorts of reasons described on  
10 Exhibit 122.

11 MR. MARTEL: When you said it depends on  
12 what management wants them for, are you talking about  
13 company management or MNR management; the reserve, when  
14 you re-classify them?

15 DR. OSBORN: The technical expression,  
16 Mr. Martel, they may well become part of - and the  
17 expression I used before - an area of concern.

18 The team, company, Crown and whoever the  
19 other parties look at what is to be the most sensible  
20 piece of management on, for example, this particular  
21 piece of real estate. And they may well become such  
22 that they are in some form of multiple-use, specialized  
23 use, or conventional timber production use. Now, that  
24 is a managerial decision.

25 The FRI at this point in time is not

1       presupposing that and that is why we have taken that  
2       designation away. It gave rise to enormous difficulty.

3               MR. CASTRILLI: Q. Continuing --

4               THE CHAIRMAN: But will MNR be involved  
5       in that decision?

6               DR. OSBORN: Oh, yes, sir, very much so.

7               THE CHAIRMAN: And does MNR have the  
8       administrative control over that decision?

9               DR. OSBORN: Yes, sir, the ultimate  
10       decision on the plan, the fate of the management on  
11       that area rests with MNR, yes, sir.

12              MR. FREIDIN: That is all referring to  
13       the area of concerned planning process which involves  
14       public involvement, which will be described in Panel 15  
15       with the planning process.

16              THE CHAIRMAN: 15.

17              MR. FREIDIN: 15.

18              THE CHAIRMAN: I suggest we hold a party  
19       just prior to Panel 15 coming.

20              MR. FREIDIN: Well, I think we will be  
21       into Exhibit 1000 before then, so it will probably be  
22       the second party.

23              MR. CASTRILLI: Q. Dr. Osborn,  
24       continuing with Exhibit 122. The fourth question we  
25       asked under Question 9 was:

1 "What has led to the reduction from.  
2 4.2- million hectares of deduction from  
3 production land in 1976 for other uses  
4 than timber to 1.6..."  
5 It actually should have been 1.4-million:  
6 "...hectares in FRO '86?"

7 And your answer was: See 9(i) and  
8 Question 8. In 9 (i) you indicate the provincial  
9 estimates were made as to what these categories may  
10 amount to over time, basically the answer you gave in  
11 Question 8.

12 DR. OSBORN: A. Yes, sir.

13 Q. So we are talking about, if I am not  
14 mistaken -- if we look at Exhibit 121, at the bottom of  
15 the page, parks 1.2-million and recreation reserves  
16 165,000 hectares; is that right?

17 A. Correct.

18 Q. And the answer you gave is that the  
19 figures in 1976 were estimates based on what the  
20 province thought these areas might amount to over time.

21 Would you agree with me - you can do the  
22 math if you like - that the province was wrong by 67  
23 per cent, 2.8 divided by 4.2?

24 A. The arithmetic --

25 Q. Subject to verification?

1                   A. Subject to verification, the  
2 arithmetic I have no unease with, it is merely the  
3 logic of the comparison that I have difficulty with.

4                   Q. And if we add recreation reserve, not  
5 being a category any longer, and the province was off  
6 by over 70 per cent, then the arithmetic there is 3.0  
7 divided by 4.2, subject again to verification?

8                   Yes?

9                   A. Again, sir, the arithmetic I have no  
10 unease about. I have some unease and uncertainty as to  
11 the logic of the comparison and it has been explained  
12 that the first was an estimate of what might be the  
13 situation in 2020. The 1986 figures were a  
14 representation of what is out there today.

15                  Q. Well, would you know whether the  
16 highly inflated 1976 figure of 4.2-million hectares for  
17 parks, reserves, et cetera, was used by the Ministry or  
18 used by the industry to raise a hew and cry about the  
19 alleged unacceptable reductions in the timber land base  
20 in the late 1970s?

21                  A. I believe that there was certainly a  
22 great deal of noise in the late 1970s.

23                  THE CHAIRMAN: A certain -- what kind of  
24 noise?

25                  DR. OSBORN: A great deal of noise. A

1 hew and cry, sorry. There was a hew and cry -- yes.

2 MR. CASTRILLI: Q. And the hew and cry  
3 arose from an alleged overcommitment of Crown land to  
4 park and recreation reserves; was it not?

5 MR. FREIDIN: Mr. Chairman, I do not see  
6 the relevancy of this line of questioning.

7 Whether or not my friend or his client  
8 feels that there was or there was not something  
9 improper or undesirable about what parts of the  
10 province were parks and what part of the province  
11 became available for timber management activities is  
12 not, with respect, an issue before this Board.

13 The Board is here to determine the effect  
14 of certain activities which are described on the  
15 environment, it is not here in order to facilitate what  
16 areas of the province or one area or another...

17 THE CHAIRMAN: Well, that may be so, Mr.  
18 Freidin, but surely one of the issues before us is the  
19 accuracy or reliability that the Board can place on  
20 Ministry estimates of what may happen in the future,  
21 and this is an example of estimates made at one point  
22 in time which, arithmetically, didn't bear out or there  
23 were large margin of errors at another point in time.

24 Now, I think the Board appreciates what  
25 Dr. Osborn is saying, that the available data and the



1 methods of compiling those estimates at a certain point  
2 in time some years ago might be quite different from  
3 what may or may not occur today based on today's  
4 estimates, but it goes to the question of what kind of  
5 reliability can the Board place on Ministry estimates  
6 of this type generically, as opposed to whether or not  
7 a certain amount of land is available for parks as  
8 opposed to being in the forest production area.

9 MR. FREIDIN: With respect, Mr. Chairman,  
10 in relation to your comment - firstly, if in fact it is  
11 relevant - assuming it is relevant to look at estimates  
12 done by the Ministry at a point in time and compare it  
13 to what actually happened in relation to this estimate,  
14 the time period has only elapsed 29 per cent.

15 In other words, this was an estimate of  
16 what the situation would be in 2020. You won't know,  
17 no one will know how close that estimate in '76 is to  
18 what actually happens until we get to the year 2020.

19 So that particular -- I don't see, in my  
20 respectful submission, to make an analysis of what has  
21 happened in the first 29 per cent of that time frame  
22 and say: Well, you are out, gives any assistance to  
23 anybody, either in relation to how timber management  
24 has occurred or, in my respectful submission, will not  
25 provide any assistance to the Board of whether the

1 estimates are valid or not.

2 THE CHAIRMAN: Well, the weight that is  
3 placed upon it is a different matter.

4 MR. FREIDIN: But --

5 THE CHAIRMAN: But just hold on a second,  
6 but the planning process envisages a 20-year planning  
7 period, albeit with five-year re-confirmation periods  
8 where you can do an analysis after a five-year period  
9 and see how well you have done, you don't wait for the  
10 full 20 years. But you are still looking, under your  
11 existing application, for a fairly lengthy planning  
12 period.

13 And, you know, there is a certain amount  
14 of forecasting that is going to be involved, and there  
15 may be some value in indicating the results of  
16 forecasts made in the past even though - I appreciate  
17 your point - you have not come to the end of that  
18 period. So the figures in themselves may not mean that  
19 much.

20 Now, perhaps, Mr. Castrilli, you can  
21 indicate what purpose looking at these estimates are in  
22 both the planned and the actual at this point in time  
23 and what relevancy this has to your case?

24 MR. CASTRILLI: Well, Mr. Chairman, I  
25 could go on at great length of the relevancy. This

1 strikes right at the heart of my client's concerns or  
2 one of my client's concerns.

3 But just to you give you two examples.  
4 To remove all of the park land that was allocated in  
5 1976 and is now allocated to a much --

6 MR. FREIDIN: Who said it was allocated?  
7 No one said it was allocated.

8 MR. CASTRILLI: Mr. Chairman, could I  
9 have the floor?

10 MR. FREIDIN: Well, if he could be more  
11 accurate in his statement...

12 THE CHAIRMAN: All right, but you will  
13 have a chance to come back, Mr. Freidin.

14 MR. CASTRILLI: I haven't interrupted you  
15 up to now.

16 THE CHAIRMAN: Go ahead, Mr. Castrilli.

17 MR. CASTRILLI: We are talking about, for  
18 example, where do we cut in this province and, if we  
19 are talking about cutting in lands that were going to  
20 be park lands or recreational reserve lands, then we  
21 are obviously talking about a much wider area of the  
22 province in 1986 than we were talking about in 1976.  
23 So that is concern No. 1, that is certainly within the  
24 jurisdictional parameters of this hearing.

25 Secondly, if we are talking about cutting

1 in much wider areas of the province in 1986 than we  
2 were talking about in '76, then we are probably  
3 undoubtedly also talking about potentially much more  
4 sensitive, much more fragile environmental locations.  
5 That will affect how we cut.

6 And with great respect to Mr. Freidin, I  
7 cannot imagine a more relevant line of questioning,  
8 particularly since he has been kind enough to provide  
9 the documentation in Panel 2 and Panel 3.

10 THE CHAIRMAN: Mr. Freidin?

11 MR. FREIDIN: Two points. How the  
12 Ministry of Natural Resources or anybody who is  
13 licensed by them cuts, is something - and in terms of  
14 whether it is going to cause a detrimental effect on  
15 the environment, whether you are concerned about  
16 protecting a use, like a lake, or whether you are  
17 worried about soil and erodibility, those are the  
18 decisions which have to be dealt with on a management  
19 unit by management unit basis and which, in fact, the  
20 Ministry is submitting in this Environmental Assessment  
21 are properly considered and accomodated.

22 Those issues can't be addressed in the  
23 abstract in the way that Mr. Castrilli is suggesting  
24 his client would like to do.

25 Secondly, it is my information that the



1 parks policy of the government of Ontario came into  
2 being in 1978. There was no parks policy of the  
3 government of Ontario, as I understand it, in 1976 when  
4 Mr. Armson wrote his report and you will see that the  
5 approximations which are referred to on page 175 of Mr.  
6 Armson's report -- pardon me, page 175 of the witness  
7 statement for Panel No. 2, are footnoted as being based  
8 on 1976 numbers or estimates.

9 So on those two submissions, Mr.  
10 Chairman, I would submit that this whole line of  
11 questioning is irrelevant.

12 My friend has suggested that that was the  
13 purpose for which he was putting them forward, not for  
14 the purpose of dealing with credibility, which was an  
15 issue that you raised. And, on that basis, Mr.  
16 Chairman, I submit that this line of questioning should  
17 not continue, because if we have to deal with those  
18 sorts of issues we will be here a lot longer than just  
19 waiting for Panel 15.

20 MR. CASTRILLI: Mr. Chairman, could I  
21 respond? I am finding this objection....

22 THE CHAIRMAN: Excuse us a moment.

23 ---Discussion off the record

24 THE CHAIRMAN: Just before we respond, we  
25 would like to know a couple of things, Mr. Castrilli.



1                   In terms of your cross-examination on  
2                   this issue, where were you going to go in terms of  
3                   time? How extensive is this area of your  
4                   cross-examination?

5                   MR. CASTRILLI: It is not very extensive  
6                   at all, Mr. Chairman.

7                   THE CHAIRMAN: Okay. I think that the  
8                   Board would like to consider the submissions made by  
9                   both of you over the lunch hour. This would probably  
10                  be an appropriate time to take a break for an hour  
11                  to --

12                  MR. CASTRILLI: Mr. Chairman, I would  
13                  like to make a response to Mr. Freidin's last comments  
14                  before we break.

15                  THE CHAIRMAN: Okay. And then it will be  
16                  the Board's intention to rise for an hour for lunch, to  
17                  be back around 12:30, and continue on until 2:00 this  
18                  afternoon and, upon our return, we will indicate  
19                  whether or not this area is relevant in our  
20                  considerations.

21                  Now, before we go--

22                  MR. CASTRILLI: Yes, thank you.

23                  THE CHAIRMAN: --you may respond.

24                  MR. CASTRILLI: There are five points. I  
25                  have already indicated that this is relevant to the

1 issue of where we cut, we are obviously talking about a  
2 larger area in 1986 than we were in 1976.

3 Secondly, it is important to the issue of  
4 how we cut, because we are undoubtedly talking about  
5 more sensitive, fragile environments and we are talking  
6 about areas that were formally called potential parks  
7 and formerly called potential recreation areas.

8 Thirdly, we are talking about reliability  
9 and credibility of Ministry of Natural Resources' data.  
10 My friend has kindly put the matter in issue by putting  
11 the documentation in, I haven't put this information  
12 in, it is part of Panel 2, it is part of Panel 3, and  
13 it is entirely appropriate for me to make the  
14 comparisons and bring them to the Board's attention.

15 I cannot imagine what Mr. Freidin is  
16 thinking about when he makes the suggestion that this  
17 is an irrelevant area of cross-examination.

18 Fourthly, he is suggesting this  
19 cross-examination is abstract. Well, with great  
20 respect to my friend, I cannot imagine a more abstract  
21 exercise than what we are engaging in generally. This  
22 is a Class Environmental Assessment and this Board can  
23 only deal with these matters at this generic level, and  
24 I am doing the best I can, given the information I have  
25 available to me, which my friend has kindly made

1 available.

2 And fifthly, my cross-examination in this  
3 area will not be extensive, it will be fairly short.

4 Those are my submissions.

5 THE CHAIRMAN: Very well. Do you have  
6 anything to add to that?

7 MR. FREIDIN: We can go back and forth,  
8 but...

9 THE CHAIRMAN: All right. Why don't we  
10 just end with you, make one last stab and then we will  
11 adjourn for lunch.

12 MR. FREIDIN: Just dealing with the Class  
13 Environmental Assessment. The Ministry of Natural  
14 Resources is putting forward for review as part of the  
15 Environmental Assessment the planning process.

16 It is the Ministry's submission that the  
17 carrying out of the activities planned for in  
18 accordance with that planning process, that all of its  
19 opportunities for involvement, people affected, and all  
20 of the things in that process regarding reporting is  
21 the sort of thing that the Board -- that boards look at  
22 in Class Environmental Assessments.

23 And I don't see how -- I don't see the  
24 connection between -- or how the line of questioning by  
25 Mr. Castrilli becomes somehow more proper because he

1       says this is a Class Environmental Assessment.

2                   THE CHAIRMAN: But surely any  
3       consideration of a planning process involves  
4       forecasting to some degree, more or less.

5                   We are not dealing, I think, with  
6       specifics to the extent that you are dealing with a  
7       plan for the future.

8                   MR. FREIDIN: We only deal with specifics  
9       for five-year periods.

10                  THE CHAIRMAN: That's right, and it is  
11       based to some extent on predictions. You have not got  
12       the hard data at the outset of the process and you do  
13       not get that hard data until somewhere down the line.

14                  And so, in that sense, surely we are  
15       dealing with predictions and the validity of whether or  
16       not those predictions are likely to be borne out in  
17       actual fact when you come back down the line and check  
18       them out in some way.

19                  MR. FREIDIN: Thank you.

20                  THE CHAIRMAN: So on that basis, I think  
21       without considering these specific comments, there is  
22       some relevancy in that sense, prima facie.

23                  MR. FREIDIN: You have my submissions.

24                  THE CHAIRMAN: However, we will --

25                  MR. CASTRILLI: We also learn from



1 history.

2 MR. MARTEL: Mr. Osborn, there was a  
3 change in policy about this time, as I understand it,  
4 on the 400 foot-wide strips around the lakes. We had  
5 quite a bit of information, I guess it was in Panel 2.

6 What prompted -- because at that time my  
7 understanding is you couldn't get to the shoreline or  
8 you couldn't, under any circumstance, cut to the  
9 shoreline because there were reserves. And it seems to  
10 me it was changed around that time, and on a  
11 unit-by-unit, site-by-site decision one could get  
12 closer to the shoreline than the 400 feet.

13 What prompted that change?

14 MR. ARMSON: If I might, Mr. Martel, the  
15 discussion in Panel 2 was, if I recall correctly, about  
16 the road allowance of 60 -- the 66-foot road allowance.  
17 That was one of the key items that came up, as I  
18 recall.

19 MR. MARTEL: There was a 400 foot too.

20 MR. FREIDIN: I think, Mr. Martel, there  
21 was evidence in Panel No. 1.

22 MR. MARTEL: Okay, No. 1, pardon me.

23 MR. FREIDIN: You recall there was a  
24 policy for protection of timber values or other values  
25 in timber management planning where in fact there was a



1 change in direction from putting donuts around all the  
2 lakes, automatically, to actually looking at the lake  
3 and the area around it, and determining on a  
4 case-by-case basis whether you needed a reserve or  
5 whether you needed a partial reserve or having no cut  
6 reserve, in effect, what was there before that change  
7 in policy.

8 So your question, as I understand it, is  
9 what caused that change?

10 MR. MARTEL: Yes.

11 MR. FREIDIN: I think it is in the  
12 transcript. I am hesitant to try to paraphrase my  
13 client's evidence, but if I could just have one moment.

14 If I go into -- without going to the  
15 transcripts, the reason behind the change was that the  
16 original placing of reserves, automatically without any  
17 consideration, around lakes, framed donuts I think it  
18 has been referred to as, may or may not have protected  
19 the environment.

20 MR. MARTEL: Yes.

21 MR. FREIDIN: The process was changed so  
22 that rather than put the donut on, you would say:  
23 There is the lake, that is an area of concern, and then  
24 you would consider whether you needed - having regard  
25 to the lake or the land, the topography, a number of

1 factors - whether you needed a reserve, no cutting at  
2 all, and the width.

3 Now, you could end up having a reserve of  
4 less than 400, you could end up with having a reserve  
5 of more than 400, it would depend on the analysis. You  
6 also might have situations at the other tree where the  
7 analysis might lead to a decision to cut to the  
8 shoreline. It might lead to a decision that you would  
9 have a reserve of a certain width and you would only be  
10 able to take out certain trees.

11 All of those considerations, all the --  
12 the considerations leading to those decisions being  
13 whether in fact to protect other aspects of the  
14 environment you have to in fact put a standard 400  
15 reserve around water bodies.

16 There is also - my client's position -  
17 that by looking at it that way, in fact they -- and  
18 they come to the conclusion, based on an examination of  
19 all the facts that they see, they think are relevant.  
20 So that you could go into that area, which used to be  
21 400, and actually do some harvesting without having a  
22 detrimental effect on other aspects of the environment,  
23 then it was not making much sense not to go in there  
24 and do that because, in fact, you were passing up an  
25 opportunity to, in fact, obtain benefits from that

1 forest through timber management, benefits which could  
2 be obtained, in the situation I described, without  
3 affecting or detrimentally affecting other aspects of  
4 the environment.

5 That was the reason for the change.

6 THE CHAIRMAN: Okay.

7 MR. MARTEL: Yes.

8 THE CHAIRMAN: Okay, ladies and  
9 gentlemen. We will be back at 12:35 p.m.

10 ---Luncheon recess at 11:35 a.m.

11 ---Upon resuming at 12:33 p.m.

12 THE CHAIRMAN: Thank you, ladies and  
13 gentlemen.

14 The Board has considered the submissions  
15 of Mr. Castrilli and Mr. Freidin and is of the opinion  
16 that Mr. Castrilli is entitled to cross-examine this  
17 panel on the evidence relating to the estimates  
18 previously made by the Ministry in 1976, which  
19 estimates related to the categorization of the land  
20 base for timber and non-timber purposes.

21 While the Board recognizes that these  
22 projections were made at a point in time and upon  
23 forecast data involving a different process than the  
24 planning process being now considered, it nevertheless  
25 may have some value in terms of the specific issues

1 before the Board for consideration.

2 Accordingly, the Board is prepared to  
3 permit cross-examination on these matters.

4 Mr. Castrilli?

5 MR. CASTRILLI: Thank you, Mr. Chairman.

6 Q. Dr. Osborn, Mr. Armson, good  
7 afternoon.

8 DR. OSBORN: A. Good afternoon.

9 Q. I believe the question I asked that  
10 never was answered, I will repeat for the benefit of  
11 the Board and yourselves.

12 The question was: Whether the inflated  
13 1976 figures of 4.2-million hectares was used by the  
14 Ministry or by industry to raise a hew and cry about  
15 alleged unacceptable reductions in the timber land base  
16 in the late 1970s in Ontario?

17 A. And the answer that I think was given  
18 before the break was there was a hew and cry in the  
19 late 1970s.

20 Q. Mr. Armson, on page 175 of your  
21 report in Panel 2 evidence, do you have the page before  
22 you?

23 MR. ARMSON: A. Yes, I do.

24 Q. You see on that page an indication,  
25 just above the table itself, that on a provincial basis



1       some approximation to these areas have been estimated  
2       and for Crown land are, and then the table appears.

3                       And there is a Reference No. 1 to a 1976  
4       Forest Production Policy, Options for Ontario, Revised  
5       Draft, Ministry of Natural Resources.

6                       Is that the source for the figures on  
7       page 175?

8                       A.   That is correct.   And I think the  
9       Board perhaps might be interested in knowing why I  
10      asked for data and these are the data that were given  
11      to me, and I would like to place that table in the  
12      context of the report, if I might, because I think that  
13      that has some bearing on the questions concerning  
14      predictions.

15                      Q.   Just so I understand your comment,  
16      you want to place the table at page 175 in the context  
17      of your report?

18                      A.   That's correct.

19                      Q.   Fine.

20                      THE CHAIRMAN:   Very well.

21                      MR. ARMSON:   The table, if the Board  
22      cares to look back to page 174 and, indeed, the section  
23      in which this occurs, but particularly the discussion  
24      on page 174 and then 175, including the table, and 176,  
25      I think what you will see is that I came to this - and



1 the reason I asked for the data concerning the land  
2 base, which is in the table, was that I was concerned  
3 about the investments in regeneration and for future  
4 wood production.

5 And there were -- page 174 deals with my  
6 comments on that on the top of page 175, and I was  
7 concerned: Was there in fact an estimate of the land  
8 base that would be available in relation to the  
9 production policy and, as the page 176 begins:

10 "Various--"

11 And I am reading from that:

12 "Various projections have been made for  
13 future wood production..."

14 And these I have related to the total  
15 production forest area.

16 I was trying to -- myself, trying to get  
17 some measure or quantification of "wood supply" in  
18 relation to a defined land base and that's why I asked  
19 the question. That's why I also used the word  
20 approximation. And in none of this was I concerned,  
21 nor did I understand, that the elements, the individual  
22 numbers in here related to anything more than an  
23 estimate towards that future 2020.

24 That's the context, in other words, in  
25 which I asked for that information.

1                   MR. CASTRILLI: Q. Mr. Armson, could I  
2 ask you to produce the reference at the bottom of page  
3 175?

4                   MR. ARMSON: A. I do not immediately  
5 have that reference. You are referring to the Draft  
6 Forest Production Policy Options.

7                   Q. Yes.

8                   A. I believe that will be produced in...

9                   MR. FREIDIN: I am just not certain  
10 whether it is incorporated in Panel 4 now or whether it  
11 is the subject matter of an interrogatory.

12                  MR. CASTRILLI: My understanding is it is  
13 not in Panel 4.

14                  MR. FREIDIN: Then is it the subject  
15 matter of an interrogatory?

16                  MR. CASTRILLI: In Panel 4?

17                  MR. FREIDIN: Yes.

18                  MR. CASTRILLI: Good question, I don't  
19 know.

20                  MR. MARTEL: Panel 15.

21                  MR. CASTRILLI: No. I don't actually  
22 recall whether -- I don't believe I actually asked for  
23 that. This has only become relevant --

24                  THE CHAIRMAN: Well, obviously, you do  
25 not have it here today?

1 MR. FREIDIN: Right. I will take it  
2 under advisement and get back to the Board.

3 MR. CASTRILLI: Thank you.

4 Mr. Chairman, at this time I have a  
5 further interrogatory.

6 THE CHAIRMAN: Exhibit 123.

7 MR. CASTRILLI: (handed)

8 THE CHAIRMAN: Thank you.

9 ---EXHIBIT NO. 123: Response by MNR to Interrogatory  
10 Question No. 10 posed by CELA.

11 MR. CASTRILLI: Q. I trust you had a  
12 moment to review what is now Exhibit 123, and the  
13 questions we initially asked - let's take them one at a  
14 time, beginning with Items (i) and (ii).

15 This is arising from your recommendation  
16 at page 177, Recommendation 6.4. And we asked for an  
17 indication respecting whether:

18 "...lands where silviculture will  
19 maintain the MAI of the natural forest,  
20 and lands where silviculture will  
21 increase the MAI from that of a natural  
22 forest? "

23 And your response is that the Ministry --  
24 found at the bottom of the page, Items (i) and (ii),  
25 that the Ministry has not delineated land in each

1 management unit in accordance with your recommendation,  
2 and you say not at the provincial level.

3 Could I ask you: Does such delineation  
4 exist at any level?

5 MR. ARMSON: A. Yes.

6 Q. Could you advise the Board which  
7 level?

8 A. Yes, and I would refer back to my  
9 statement and testimony in Panel 2 and an undertaking I  
10 made then which I will be fulfilling to provide to the  
11 Board with the information concerning areas delineated,  
12 not per se on a management unit, but within two of the  
13 regions, and I specifically mentioned the northern  
14 region and the northeastern region - and some elements  
15 to some other regions - but those two, in particular,  
16 where there has been an effort, indeed a major attempt,  
17 to delineate the kinds of land in relation ultimately  
18 to forest productivity.

19 That was not done in relation to mean  
20 annual increment or MAI, per se, but that is what the  
21 answer to part (iii) of the question refers to.

22 Q. You say it is not on a management --  
23 not necessarily on a management unit basis?

24 A. No. In the northern region it was  
25 done at a regional level, but the information is

1       available for each of the management units within that  
2       region and that information -- I believe, Mr.  
3       Castrilli, you had asked for a description or a listing  
4       of the basis, the land surveys that were utilized in  
5       that survey and that will be provided.

6                       Q. Do you have any indication, will it  
7       be for Panel 4?

8                       A. I would hope so. I believe...

9                       MR. FREIDIN: I believe if the  
10       undertaking you have been referring to, Mr. Armson, is  
11       to provide a catalogue or an estimate of the documents  
12       in relation to soil surveys, yes, that will be provided  
13       in Panel 4.

14                      MR. CASTRILLI: Thank you.

15                      Q. Well, the last question on Exhibit  
16       123 was:

17                      "Do maps exist for each management unit  
18       indicating the areas classified in  
19       accordance with the recommendation?"

20                      And your answer was no.

21                      MR. ARMSON: A. That is the  
22       classification as related to my Recommendation 6.4,  
23       and, as I believe I have explained, time has moved on  
24       and it was the land classification survey of the land  
25       that was important rather than areas of MAI.



1                   Q. My question then I guess will be -- I  
2 should probably wait for this information. I am not  
3 inclined to -- I suppose I could ask the question now  
4 and you can think about it in the context of the answer  
5 you will eventually give when you produce the  
6 information for Panel 4, if that's reasonable.

7                   The question is: I would like to know  
8 whether the Ministry will in fact - in the absence of  
9 maps, but perhaps in the presence of whatever it is you  
10 will be providing - will know where in fact increased  
11 growth from silviculture will work and perhaps you  
12 could think about that when --

13                  A. I think I can give an -- that is the  
14 purpose of the surveys that were undertaken.

15                  Q. Okay, that's fine.

16                  So we will have that when we see the  
17 surveys?

18                  A. Yes.

19                  Q. Thank you.

20                  MR. CASTRILLI: Mr. Chairman, the next  
21 exhibit -- the next interrogatory was placed on Mr.  
22 Armson...

23                  THE CHAIRMAN: Exhibit No. 124.

24                  MR. CASTRILLI: Mr. Chairman, there is  
25 one correction to Exhibit 124. The page reference at

1 the top of the page currently says 1980, that should be  
2 to page 180.

3 THE CHAIRMAN: Thank you.

4 MR. CASTRILLI: And that's page 180 of  
5 the Panel 2 evidence.

6 THE CHAIRMAN: Exhibit 53.

7 ---EXHIBIT NO. 124: Response by MNR to Interrogatory  
8 Question No. 11 posed by CELA.

9 MR. CASTRILLI: Q. Gentlemen, you have  
10 had an opportunity to review the questions and the  
11 answer, and your answer to whether steps had been taken  
12 to implement your Recommendation 6.7 was no.

13 MR. ARMSON: A. That is correct.

14 Q. Can I also take it that your answer  
15 is that these areas have not be identified through, for  
16 example, the FRI?

17 A. That is correct. Apart from the --  
18 with the qualification that Dr. Osborn referred to -  
19 those areas that were recreation reserves for the small  
20 number of units.

21 Q. As I recall the recommendation at the  
22 bottom of page 180, it deals with identifying  
23 significant areas in need of forest management,  
24 primarily for aesthetic, recreational and other  
25 non-consumptive uses.

1                   My question is: If they have not been  
2 identified, how can they be managed?

3                   A. If I would answer that question, that  
4 is correct. If you can't identify the area you can't  
5 manage it, and the recommendation grew from my  
6 observations during the course of 1975-1976 that there  
7 were areas - and they are specified in the preceding  
8 paragraph on page 180 to the recommendation - where  
9 recreational concerns and other uses were of prime  
10 consideration and, in fact, the long-term benefit of  
11 that area to meet non-timber uses might be lessened and  
12 in fact, in my opinion, would be considerably lessened  
13 without some form of management of the forest or the  
14 timber.

15                   In other words, it would be managed for  
16 those other considerations primarily, and that was and  
17 still remains a concern which I believe can be met  
18 through the process of defining areas of concern in the  
19 management planning process as it now is.

20                   Q. So if I understand your testimony  
21 then, Recommendation 6.7 is going to be met in spirit,  
22 if not in practice, by the Ministry through what the  
23 Ministry now describes as areas of concern?

24                   A. It is certainly my understanding that  
25 much of the areas that I had identified there -- I also

1       embraced within that recommendation existing park  
2       areas, so that those would not be obviously - with the  
3       exception perhaps of Algonquin Park - would not come  
4       within the process for areas of concern.

5                       I think that would be generally  
6       understood.

7                       THE CHAIRMAN: Well, they have been  
8       identified?

9                       MR. ARMSON: They have been identified.  
10       But if I might add, Mr. Chairman, the concern when I  
11       came with the Ministry continued and I was part of a  
12       small committee set up by the outdoor recreation group  
13       to, in fact, consider better ways of management of  
14       vegetation within parks and that, to some degree, has I  
15       believe moved in the direction of satisfying at least  
16       part of my recommendation.

17                      MR. MARTEL: Was that also because there  
18       was some - I am not sure pressure is the right word -  
19       approximately at that time to start to utilize the  
20       parks for multi-use purposes; in other words, cutting  
21       and so on?

22                      MR. ARMSON: No, sir, this was not in  
23       relation to that. It was a concern within even some of  
24       the parks people at the time, that to maintain a kind  
25       of habitat, if you like, for recreation -- as has been



1 reiterated time and time again, trees don't live on for  
2 ever and to maintain a kind of environment, a specific  
3 one - and the best example I could give you is the  
4 maintenance of white pine in Sibley Provincial Park  
5 just east of here - to maintain that you have to work  
6 at it, because if you don't do anything it is likely to  
7 be replaced in the long run by other species, and  
8 certainly not white pine.

9 MR. CASTRILLI: Q. If we can turn to the  
10 Panel 3 evidence, Exhibit 78.

11 Dr. Osborn, at that page, paragraph 38 --  
12 page 27, paragraph 38, you refer to random checks  
13 performed by the Ministry staff for accuracy of ground  
14 sampling and photointerpretation.

15 Could you advise the Board as to what per  
16 cent accuracy is looked for during the course of these  
17 checks?

18 DR. OSBORN: A. In the ground sampling  
19 there are a set of specifications laid out in the  
20 contract - and I don't have a contract in front of me  
21 so I am not going to try and second-guess exactly what  
22 the values might be - but whatever the terms of that  
23 contract are, are those that are checked when the  
24 ground sampling is in fact audited.

25 Q. I assume the terms would vary



1 contract-by-contract?

2 A. I would doubt it. I am just trying  
3 to think about that for a moment. Generally the answer  
4 would be no, but I am just trying to think if there is  
5 any exception to that because, generally, the contract  
6 would be relatively standard in the way of doing ground  
7 sampling.

8 Q. Could I ask you to confirm for us  
9 what the per cent accuracy would then be in the  
10 contracts?

11 A. It is not a per cent accuracy we are  
12 looking for, sir. If you think of how the FRI ground  
13 cruising was done, you remember the procedure we  
14 followed; we went through and at each of the stations  
15 we counted how many trees we caught with the prism, and  
16 we measured the heights of the trees, and we bored the  
17 trees for age. Then what check does is essentially go  
18 through and exactly repeat the same procedure, and I  
19 described that.

20 So you literally go back to the plots, to  
21 the plot centres which are marked and you sweep, to see  
22 if you get the same count that was done by the  
23 contractor. You measure the ages and heights of the  
24 trees that were sampled by the contractors, do you get  
25 the same ages and heights.

1                   It is no a per cent accuracy comment, it  
2                   is an item-by-item of the values recorded, are they  
3                   verified or not by the check.

4                   Q. All right. But inevitably you must  
5                   get differences from the first to the second check; is  
6                   that not true?

7                   A. From the original to the check?

8                   Q. From the original to the check.

9                   A. Yes, they will occur in certain  
10                  occasions, particularly with the sweep.

11                  Q. Well, how much error does the  
12                  Ministry accept?

13                  A. Again, we are back to my first  
14                  statement. Unless I have in front of me a contract, I  
15                  do not know off the top of my head whether in fact a  
16                  one sweep -- a one tree difference in the sweep is  
17                  relevant or not. That is the sort of thing I would  
18                  have to look at.

19                  If we measure the heights, do we have to  
20                  be within one metre, half a metre. Again, I would need  
21                  to look at the exact contract specifications to verify  
22                  that number.

23                  THE CHAIRMAN: Well, is it done on the  
24                  basis that if you are out in any of the numbers they  
25                  have to go and do it again, or do you say basically:

1 We will allow so many errors of either height or age  
2 before you have to go out and do it again because you  
3 have not met the terms of the contract?

4 DR. OSBORN: It is the latter, sir, that  
5 I do know.

6 THE CHAIRMAN: And they would not  
7 normally be converted to some range of error?

8 DR. OSBORN: No, sir. As described, it  
9 is a component-by-component check.

10 THE CHAIRMAN: Thank you.

11 MR. CASTRILLI: Q. Paragraph 41, it is  
12 page 28. You are referring there to the second year of  
13 field sampling, you talk about the areas sampled.

14 How representative are the areas that are  
15 chosen for sampling?

16 DR. OSBORN: A. This relates almost  
17 exactly to an interrogatory you asked. It was Question  
18 3 that you asked as an interrogatory, and the answer  
19 given was that the representativeness - and I am going  
20 to now read from that answer to that interrogatory.

21 Q. Is it an exhibit?

22 A. You haven't authored it, but it was  
23 one of your interrogatories.

24 Q. No, what I meant to say is, is it one  
25 that you have already filed?

1                   A. We haven't filed the interrogatory,  
2                   sir.

3                   Q. Okay.

4                   A. But I see no reason to differ in my  
5                   answer from that which I gave you when I answered the  
6                   interrogatory.

7                   Q. That's fine. I don't think I was  
8                   actually planning on filing it. I don't think it is  
9                   one of the ones I have, but if you want to simply read  
10                  it into the record, that's fine.

11                  A. It says:

12                  "Representativeness of the stands  
13                  compared to the entire area with regards  
14                  to working group, age-classes, stocking  
15                  variations and site conditions..."

16                  And it goes on to have some further  
17                  details about another part of the same question. And,  
18                  again, this was essentially what was said when I  
19                  described the FRI sample procedure.

20                  Q. What is the sampling intensity?

21                  A. As I again explained, approximately  
22                  on average one sample plot per square mile or less, and  
23                  there is an explanation in that particular  
24                  interrogatory answer to explain why that amount has  
25                  been reduced over time.

1                   And, again, I believe in the course of  
2     presenting evidence on the FRI, this was also explained  
3     and the fact that that percentage sample, that  
4     intensity of sample had been reduced under certain  
5     circumstances.

6                   Q.   Paragraphs 46 and 47.

7                   MR. FREIDIN:  I believe, by the way, that  
8     that particular interrogatory may be Exhibit 114.

9                   THE CHAIRMAN:  I do not think so.  That  
10    one is Question No. 1 pertaining to witness statement  
11    No. 3, Panel 3.

12                  DR. OSBORN:  Yes, sir, and what I have  
13    just read from is Question No. 3 of the  
14    interrogatories, not Question No. 1.

15                  MR. CASTRILLI:  I don't believe I was  
16    planning on filing it.

17                  THE CHAIRMAN:  So you are moving on to  
18    paragraph 40...

19                  MR. CASTRILLI:  Paragraphs 46 and 47,  
20    pages 29 and 30.

21                  THE CHAIRMAN:  Thank you.

22                  DR. OSBORN:  Yes?

23                  MR. CASTRILLI:  Q.  Further to detailed  
24    description of each stand is made for the FRI, and you  
25    have also testified earlier that the FRI is an estimate



1 of the forest; is that correct?

2 DR. OSBORN: A. The estimate in the FRI,  
3 yes, indicates each stand as an estimate and the FRI  
4 is an estimate in totality, yes.

5 Q. And in paragraphs 46 and 47 you are  
6 talking about a detailed description of each stand.

7 A. Paragraph 47--

8 Q. Yes.

9 A. --is a detailed, is a comparative  
10 term saying what is on the map versus what is available  
11 elsewhere. There are more pieces of evidence  
12 elsewhere, more detail. There is no inference that  
13 that is an intimately detailed description  
14 stand-by-stand.

15 Q. Well, it says a more detailed  
16 description of each stand is contained. Doesn't that  
17 mean it is a detailed description?

18 A. It means, sir, there is more detail  
19 given in the report, again as was demonstrated, than  
20 that which is contained on the annotation on the map  
21 sheet.

22 The stand description on the map sheet  
23 were the five lines, and we went through very much in  
24 slow detail as to what that annotation was on the map  
25 sheet. We have also pointed out going through the map,

1       which is described on 46 paragraph, that there are  
2       additional pieces of information, in addition to that  
3       that is on the map sheet contained in the report.

4               Q. All right. And if we turn your  
5       attention to paragraph 32 of your evidence, page 26, it  
6       is there stated that the FRI does not provide a precise  
7       record of the forest in any given management unit,  
8       rather it is an estimate of the forest.

9               And would you agree with me that this is  
10      a cause for misuse, one cause for misuse of the FRI?

11              A. What is a cause for misuse?

12              Q. Would you agree that putting such  
13      detail on maps creates the impression that there is a  
14      great deal known about the stand?

15              A. Not for those parties who receive it  
16      who understand the process. And the process, as I  
17      described, was very carefully explained to all the  
18      people who use these data on a regular basis.

19              Considerable effort is taken to ensure  
20      that people for whom the system was designed have a  
21      full comprehension of how each and every part of the  
22      process was put together, so that when you have a  
23      forest stand map with the listing stand-by-stand, there  
24      is an understanding of how far you take that, and where  
25      it came from, and how you can use it.

1                   Q.   Would you agree that the detailed  
2                   ledgers of information that are prepared provide a  
3                   detail of a general condition?

4                   A.   They provide a description of a  
5                   general condition that is in the stand; it is an  
6                   overall average estimate.

7                   Q.   Can you advise the Board why you  
8                   would map in such detail if you then work in such broad  
9                   estimations?

10                  A.   Okay.  We are back to the question of  
11                  inventory design.

12                  The alternatives really between two  
13                  inventory designs:  Do we take some detailed precise  
14                  numbers on a set of plots to use for growth and yield  
15                  but not know where anything is or, as in Ontario's  
16                  philosophy, do we have an estimate with a  
17                  representation, as shown in Exhibit 85, et cetera, of  
18                  where something is, as well as a set of numerics  
19                  approximating what is there.

20                  Now, as a matter of philosophy, Ontario  
21                  made a decision to represent where things are stand, by  
22                  stand, by stand.

23                  In fact, Mr. Castrilli, to take it one  
24                  step further, it would be rather difficult to do the  
25                  field trip proposed in two weeks time without such

1 kinds of data.

2 Q. Well, I won't have to look forward to  
3 that.

4 Paragraph 49. There you are describing  
5 that generally speaking timber management activities  
6 occur only on those parts of the management unit which  
7 are both owned by the Crown and are part of the  
8 productive forest, as you define it at page 185 of your  
9 evidence, which I believe is Document 29.

10 Now, looking at page 185...

11 A. I have got that. I am looking for  
12 something else that is going to ensue.

13 Q. Don't anticipate, you will only run  
14 yourself into the ground.

15 Would it be fair to say that timber  
16 management activities could occur on non-forested and  
17 forested non-productive areas as well as -- and not  
18 solely productive forest?

19 A. My ensuing -- my idea of what was  
20 going to ensue was correct. Bear with me.

21 The exhibit number I have forgotten, but  
22 there was a letter that Ms. Murphy I believe sent with  
23 an amendment to certain words in Exhibit 4 of  
24 productive protection forest that was -- I think went  
25 in the record yesterday.

1 Q. It is Exhibit 79.

2 A. Okay, thank you.

3 Q. What page are you referring to in  
4 Exhibit 79?

5 A. On page 4 of Exhibit 79, okay.  
6 Exhibit 79 page 4, which essentially was a set of words  
7 that were to be reinserted in the Reference No. 4 --  
8 Exhibit No. 4.

9 MRS. KOVEN: I cannot find my Exhibit 79.

10 MR. CASTRILLI: Exhibit 79 is the letter  
11 dated May 3, 1988.

12 THE CHAIRMAN: I am not sure we have that  
13 one out here. Have you got it?

14 MR. MARTEL: (handed)

15 THE CHAIRMAN: Okay, we have one copy in  
16 any event.

17 MR. FREIDIN: We have an extra copy.

18 MR. FREIDIN: (handed)

19 MRS. KOVEN: Thank you.

20 MR. FREIDIN: This is our copy. Can we  
21 have that one back, with your markings?

22 DR. OSBORN: Page 4 of that exhibit, the  
23 last paragraph, the third sentence in that paragraph  
24 states:

25 "Some operations such as access road



1 construction may also be carried out on  
2 non-productive forest lands in order to  
3 implement operations on production forest  
4 lands."

5 So in relation to the question, some  
6 facets of the undertaking may take place on  
7 non-productive forest lands.

8 MR. CASTRILLI: Q. So the answer is yes?

9 DR. OSBORN A. Yes.

10 Q. In particular, but not necessarily  
11 exclusively, logging roads, logging road construction?

12 A. That's correct.

13 THE CHAIRMAN: Mr. Freidin, do you want  
14 it back? These are your markings not mine. (handed)

15 MR. FREIDIN: Thank you.

16 MR. CASTRILLI: Q. Dr. Osborn, I  
17 understand from your testimony that in timber  
18 management the purpose is to provide a continuous and  
19 predictable supply of wood to Ontario's forest products  
20 industry and that the desired supply is defined in  
21 terms of species and volume; is that correct?

22 A. That's correct.

23 Q. Could you advise the Board what the  
24 continuous production for the province is expected to  
25 be for the next 20 years by species and volume?

1                   A. If you wait til Panel 4, sir, Panel 4  
2 will present some evidence that speaks to that  
3 question.

4                   Q. Your testimony indicates that the  
5 desired supply is defined in terms of species and  
6 volume. Would you also agree with me that the quality  
7 of supply is also important?

8                   A. For some products.

9                   Q. For the industry?

10                  A. Pardon?

11                  Q. The quality of supply is also  
12 important for the industry?

13                  A. For some -- for particular industry,  
14 the quality is a key ingredient, yes.

15                  I could ask exactly what you mean by the  
16 word quality.

17                  THE CHAIRMAN: I think this is Mr.  
18 Castrilli's cross-examination.

19                  DR. OSBORN: Sorry, sir.

20                  MR. CASTRILLI: Q. Would it be fair to  
21 say that the quality of logs available to an Ontario  
22 mill is generally substantially below that enjoyed  
23 in -- or by British Columbian mills in terms  
24 particularly of diameter?

25                  DR. OSBORN: A. Particularly the British

1 Columbian coast, yes. 700-year-old Douglas fir trees  
2 are somewhat larger than the average sized spruce and  
3 jack pine in Ontario.

4 Q. Do you have your Exhibit 61, that is  
5 the Woodbridge Reed Report.

6 Paragraph 3 essentially comes to that  
7 conclusion; do you agree with the --

8 MR. MARTEL: What page?

9 MR. CASTRILLI: Sorry, paragraph 3 of  
10 page 48.

11 MR. MARTEL: Thank you.

12 DR. OSBORN: Oh.

13 MR. FREIDIN: Third paragraph on page 48?

14 MR. CASTRILLI: Yes.

15 Q. Do you agree with the assessment?

16 DR. OSBORN: A. Yes, sir, I have  
17 measured trees in British Columbia and in Ontario.

18 Q. Now, you refer to the provincial  
19 yield tables in paragraph 55 of your evidence, and I  
20 understand that the Ministry does not use any means  
21 other than Plonski's normal yield tables for  
22 determining the growth of the forest; is that correct?

23 A. This also was a question asked by  
24 you. It was your Question No. 9 and the answer to the  
25 question was, no, with the caveat that the metric

1 tables which were produced as exhibit--

2 Q. 88, sir.

3 A. Thank you.

4 --had more species in them than the  
5 original Plonski yield tables that were included within  
6 the Panel 3 evidence.

7 Q. Can you confirm for me that other  
8 methods have been developed in other countries?

9 A. Other methods for doing what?

10 Q. Growth -- determining growth and  
11 yield?

12 A. Than normal yield tables?

13 Q. Yes.

14 A. Yes.

15 Q. I have an example of that in what is  
16 now Exhibit 106, Davis, 1987, page 100.

17 A. Mr. Castrilli, which reference?

18 Q. Sorry, the reference to Davis is...

19 A. Lawrence Davis?

20 Q. Lawrence Davis, Exhibit 106.

21 MR. CASTRILLI: Mr. Chairman, I may have  
22 an extra copy of 106 if you need it.

23 THE CHAIRMAN: We are getting there, I  
24 just found Exhibit 79.

25 MR. MARTEL: Maybe it is just the luck of

1 the draw.

2 THE CHAIRMAN: I do not think I have that  
3 one.

4 MR. CASTRILLI: (handed)

5 THE CHAIRMAN: Thank you.

6 MR. CASTRILLI: Q. Dr. Osborn, page 100  
7 of Exhibit 106 contains a Table 5-1 which is a  
8 classification of growth and yield tables prepared by  
9 the author of the text, Lawrence Davis. It is just  
10 really a listing.

11 And you'd agree that the reference  
12 Professor Davis has on that page to a normal yield  
13 table, under item Roman numeral IA, would be equivalent  
14 to or comparable to...

15 THE CHAIRMAN: I think I have got the  
16 wrong Davis one.

17 MR. CASTRILLI: Oh, is that Kenneth I  
18 have given you?

19 THE CHAIRMAN: I have got Kenneth.

20 MR. CASTRILLI: You realize that they are  
21 all Davises and they all have written texts called  
22 Forest Management. (handed)

23 THE CHAIRMAN: Thanks.

24 MR. CASTRILLI: Q. Dr. Osborn, do you  
25 have the page?



1 DR. OSBORN: A. Yes.

2 Q. Can you confirm for me that the  
3 reference to normal yield table on page 100 of Exhibit  
4 106 would be to Plonski's, or an equivalent?

5 A. Yes, with one corollary, there is no  
6 mention by species there I don't think.

7 Q. Okay. Just looking --

8 A. As volume is a function of age and  
9 site, which is what the 'A' and 'S' stands for.

10 Q. Just looking at the other models  
11 listed on that page, can you advise the Board how many  
12 other of the models listed on that page are used in  
13 Ontario for determining the growth of the forest?

14 A. I know of two in that list, two of  
15 those models that have been examined, analysed and have  
16 some applications, some local application - although  
17 not in the FRI- some local application as far as I know  
18 in practice within Ontario.

19 Q. That would be by MNR?

20 A. That's why I am hesitating because I  
21 am not sure of the second one, whether MNR uses it. I  
22 know it was produced and it is within an area of the  
23 undertaking. Whether it is being used by local MNR  
24 staff or not, I am not sure.

25 Q. Maybe just for the record you can

1 indicate the two that you believe--

2 A. Yes.

3 Q. --that applies to?

4 A. Under Roman numeral I, under alpha  
5 character D, under arabic numbers 2(a)(ii), all right.

6 Q. Better known as stand density  
7 prediction?

8 A. Fair enough. Volume is a fuction of  
9 site, age and diameter, and more relevant in the way I  
10 am thinking it's practised, it is usually basal area  
11 which is the square of diameter.

12 That method of determining what the  
13 growth might be as a fuction particularly of basal area  
14 is practised in the tolerant hardwoods in the Algonquin  
15 region in MNR.

16 In fact, the regulation of the forest and  
17 the use of a gross predictor on a stand basal area  
18 basis is used very much as a regulator of how much  
19 growing stock on a stand is the best level to have for  
20 optimum growth. It is one of the standard approaches  
21 that's used in tolerant hardwood mangement. So it is a  
22 model that is similar to that code stand density  
23 prediction.

24 The second one, if we come through into  
25 Roman numeral II, the letter A, we have emperical --

1 no, I am sorry, let's back up.

2 Roman numeral IA, arabic numeral 2,  
3 emperical yield tables for average current stands. I  
4 know the table has been produced within northern  
5 Ontario, it was produced by a professor at the  
6 University of Toronto, Mr. Vic Smith, he produced a set  
7 of emperical yield tables for black spruce.

8 And whether or not those tables are  
9 actually being used locally as estimaters of growth, I  
10 am not sure, but certainly the data and the tables are  
11 available to both company and Crown staff in that  
12 location.

13 Q. So if I understand your testimony  
14 correctly then, with respect to the stand density  
15 prediction model, that one is being used systematically  
16 in the Algonquin region?

17 A. It is being used as a guide as to:  
18 What should I expect to get in growth, what should I  
19 mark the trees down to in terms of basal area to both  
20 end up with an optimum growth rate and still, in the  
21 process of marking, keep the trees I want in terms of  
22 future quality.

23 Q. It is being used systematically there  
24 on a regular basis?

25 A. Being used -- okay, thank you. I

1       wasn't sure where you were coming from with systematic.  
2       On a regular basis, as far as I understand, yes.

3                   Q.   Thank you.  And as far as you are  
4       aware it's - with respect to the emperical yield tables  
5       for average current stands - not systematically or not  
6       regular practised by MNR in Ontario?

7                   A.   Yes, correct.  You should recognize  
8       that red pine yield tables that were shown to you  
9       within -- for planted and thinned stands, in essence,  
10      are an emperical yield table.  In other words, that's  
11      recognized.

12                  Q.   That's fine.  Paragraph 56 of your  
13      evidence.

14                  A.   Okay.

15                  Q.   Your testimony there is site class is  
16      a measure of the relative productive capacity of a site  
17      for a particular species.  Would you agree with me that  
18      that is only true if you know the average height at a  
19      given age?

20                  A.   That's the way in which it is  
21      derived.

22                  Q.   So the answer is yes?

23                  A.   Yes.

24                  Q.   And I understand from your testimony,  
25      strictly your oral testimony, that both age and height

1 are determined by photointerpretation and extrapolation  
2 from ground samples; is that correct?

3 A. Correct, with the exception of where  
4 the data comes from stand -- from data supplied by the  
5 field.

6 Q. Would you agree with me that a  
7 10-foot error in height may produce a 30 per cent  
8 volume error?

9 A. It is possible, depending where you  
10 fall onto the boudary between the site classs.

11 Q. And that such an error with respect  
12 to height and such an error with respect to volume  
13 would result in a 1:1.5 site class error?

14 A. I believe that was the arithmetic  
15 that was described.

16 Q. That would be described by Mervart?

17 A. That's right.

18 MR. CASTRILLI: Mr. Chairman, I would  
19 like to make this the next exhibit, if we first have  
20 the witness identify it.

21 THE CHAIRMAN: Exhibit 125.

22 MR. CASTRILLI: Q. Dr. Osborn, is this a  
23 a copy of the paper by J. Mervart that you were  
24 referring to?

25 DR. OSBORN: A. Yes.



1       ---EXHIBIT NO. 125:   Copy of Discussion Paper On  
2                                   Accuracy of FRI and O.C. Volume  
3                                   Estimates by J.A. Mervart,  
                                  September, 1985.

4                           MR. CASTRILLI:   Q.   Dr. Osborn, the paper  
5       written by J.A. Mervart, Forest Mensurationist for the  
6       Province of Ontario, Ministry of Natural Resources, I  
7       presume?

8                           DR. OSBORN:   A.   He --

9                           Q.   He was?

10                          A.   Yes.

11                          Q.   The Division of Forests, I presume,  
12       means Ministry of Natural Resources?

13                          A.   Yes.

14                          Q.   September, 1975.  I refer you to page  
15       15, the last full paragraph on that page.  The author  
16       indicates that:

17                          "According to Raymond, it appears that  
18                           the present photography, scale and  
19                           standard equipment, the inherent  
20                           precision of estimating tree heights is  
21                           about plus or minus ten feet.  A check  
22                           of a yield table reveals that in mature  
23                           stands a 10-foot error in height may  
24                           easily result in a 30 per cent volume  
25                           error and a jump by 1 to 1.5 site

1 classes..."

2 And Mr. Mervart goes on to indicate that  
3 an error of five feet would result in a 15 to 20 per  
4 cent volume error and he says, perhaps a .5 site class  
5 difference.

6 Do you agree with that conclusion?

7 A. For the way it is stated, quite  
8 certainly, and with the statement that continues over  
9 the page which goes on to say that the compilation may  
10 in fact dampen that effect or it may increase it.

11 Q. Are you aware of any other  
12 assessments done within or outside of MNR at this time,  
13 September -- or the mid-70s?

14 A. No, not within the mid-70s, but I do  
15 know that within my own section with the  
16 photointerpreters we spent some time and effort in  
17 checking the height measurements for a variety of  
18 photointerpreters and a variety of people to see  
19 whether, in fact, the estimates on the ground for  
20 height are accurate.

21 And, again, looking at the photographs  
22 and comparing the estimates of height on that  
23 photograph, were the actual heights measured on the  
24 sample trees.

25 So within MNR, within staff I have to do

1 photointerpretation and ground cruising, there is a  
2 continual -- and keep looking at making sure those  
3 peoples' precision and estimates on height, from the  
4 ground to the photo is checked and the  
5 photointerpreters understand where they may or may not  
6 have some degree of bias.

7 Q. Would you agree that the error  
8 characterized by -- by the way, just before I continue,  
9 is Mr. Mervart or Dr. Mervart your predecessor?

10 A. He followed into the position that I  
11 had before him. I was the mensurationist before Dr.  
12 Mervart. Dr. Mervart now is the forest mensurationist.

13 Q. Do you agree that the error Dr.  
14 Mervart is referring to on page 15 of what is now  
15 Exhibit 125 can result without considering that the age  
16 estimate may be in error as well?

17 A. Yes.

18 Q. Can you confirm that the FRI volumes  
19 are still obtained by using the published yield curves?

20 A. Yes.

21 Q. Plonski?

22 A. Yes.

23 Q. Your testimony also addresses the  
24 issue of stocking adjustments to reflect the actual  
25 forest in comparison to the normal forest; is that

1 right?

2 A. That's correct.

3 Q. And I understand from your prior  
4 testimony that the Ministry uses the provincial yield  
5 tables to help determine a stand's volume and growth;  
6 is that correct?

7 A. Yes.

8 Q. And would you agree with me that the  
9 use of yield tables to obtain volumes is less accurate  
10 than using other approaches?

11 A. It depends which other approach you  
12 are alluding to.

13 Q. Let's consider the other approaches  
14 referred to by Mervart in Exhibit 125. I refer you to  
15 page 4. Beginning in the second sentence at the top of  
16 the page, Dr. Mervart indicates that:

17 "U.S. inventories are conducted under a  
18 statistically..."

19 MR. CASTRILLI: Sorry, Mr. Chairman, do  
20 you have the page?

21 THE CHAIRMAN: I will in a minute. Okay.

22 MR. CASTRILLI: Dr. Mervart is there  
23 indicating that the:

24 "U.S. inventories are conducted under a  
25 statistically valid sampling design and

1                   such measurement procedures which ensure  
2                   that the estimate objectively  
3                   approximates the true population, mean or  
4                   total." Such conditions -- "...under  
5                   such conditions, the competence interval  
6                   about the estimate has some meaning. Our  
7                   FRI system is not based on a statistical  
8                   sampling design, moreover, the FRI  
9                   volumes are not derived by measurement  
10                  but indirectly, via estimated stand  
11                  parameters and a yield table. Therefore,  
12                  we cannot assign any competence limit to  
13                  our estimates and can never be sure how  
14                  much the estimates are biased."

15                 Do you agree with that assessment?

16                 A. That's exactly what I tried to  
17                 describe in Exhibit 118 yesterday afternoon, yes.

18                 And in the evidence-in-chief I presented,  
19                 I described a situation within the United States using  
20                 permanent sample plots with a statistically valid  
21                 design with an estimate of precision, that which is out  
22                 there, which is typically done in some states which  
23                 tells you what you have got, approximately how well you  
24                 know that, but you don't necessarily know where it is.

25                 Q. Would you agree with me that the



1 volume estimates obtained using yield tables are even  
2 less accurate and the possible error further compounded  
3 when the yield tables are used to estimate volumes of  
4 other species, as you outline in your evidence at page  
5 32, paragraph 60?

6 A. At the stand level, this was  
7 explicitly described, and the sources of error were  
8 pointed out at the stand level.

9 Q. So your answer is yes?

10 A. Yes.

11 Q. Now, paragraph 61 at page 33 of your  
12 evidence. Your testimony is that the FRI may be  
13 supplemented by other information about the forest.

14 And I further understand that the other  
15 sources and surveys that you are referring to there  
16 include generation, stocking assessments, free to grow  
17 assessments, fire damage reports, insect damage  
18 reports, cutover mapping and cutover assessment; is  
19 that correct?

20 A. That's correct.

21 Q. That's from the --

22 MR. CASTRILLI: I will file this for the  
23 record. This was a further interrogatory we asked.

24 THE CHAIRMAN: That will be Exhibit No.  
25 126.

1 ---EXHIBIT NO. 126: Response by MNR to Interrogatory  
2 Question No. 4 posed by CELA.

3 MR. CASTRILLI: Q. Dr. Osborn, what are  
4 cutover mapping and cutover assessments?

5 DR. OSBORN: A. The cutover mapping is  
6 as the title would suggest, a map showing the location  
7 of the cutovers.

8 Q. This is done on a management unit  
9 basis?

10 A. Yes.

11 Q. What is reported in the cutover  
12 mapping and cutover assessment material?

13 A. The cutover mapping typically will  
14 show an outline of where the cutting has taken place;  
15 i.e., a change from that which was there before has  
16 happened.

17 So you have a line creating another  
18 forest stand that says: What is on one side of that  
19 line now is not that which it was before, you have a  
20 new stand.

21 Q. The assessment, is that text?

22 A. The assessment usually - and it is  
23 particularly relevant if you cut some trees out of what  
24 was there before - particularly, let's say we have a  
25 mixed wood stand and we cut some part of it, so the

1       cutover, per se, is not so obvious and the cutover  
2       assessment will describe typically what is left behind,  
3       so the FRI knows: Yes, we have changed the stand from  
4       that which was there before.

5               The new stand description now may well be  
6       instead of a mixed wood stand of some species, it might  
7       be a mixed wood stand or a stand of other species.

8               Q. Can I just ask you, your testimony is  
9       they are done on a management unit by management unit  
10      basis. What is their relationship to the timber  
11      management plans and, particularly, the annual  
12      reporting; are they included?

13              A. Now, you are stepping out of where I  
14      do not know exactly what is in the annual report or the  
15      annual plan, so I am not sure whether they are included  
16      as part of that documentation, per se.

17              I was describing that if I go and talk to  
18      field staff about a new FRI in their area, one of the  
19      pieces of documentation the FRI would look for to  
20      enable it to produce a more reliable estimate next time  
21      around, is what documentation exists in the district  
22      describe a change that is an aid to the ground cruising  
23      photointerpretation.

24              Local field staff have records that say:  
25      I know what is out there now, I have got a good

1 estimate of it, I take that as input into the FRI  
2 process.

3 Q. So if I understand your testimony  
4 then, the cutover mapping and cutover assessments are  
5 not done by your office, they are done at the district  
6 level?

7 A. Correct, it's district records.

8 Q. And your testimony is: You don't  
9 know what or where, or whether the districts attach  
10 that material to the tables we spoke of earlier that  
11 are required to be produced by the Timber Management  
12 Planning Manual?

13 A. No, I don't.

14 Q. Can I presume Panel 15...

15 MR. MARTEL: Where else?

16 MR. FREIDIN: They are not attached.

17 MR. CASTRILLI: They are not attached.

18 THE CHAIRMAN: These changes, Dr. Osborn,  
19 would be picked up in the revision of the FRI next  
20 timed around; would they?

21 DR. OSBORN: This is the whole rationale  
22 of why we collect them, sir, yes. If the field have  
23 got local data that we can fold into what is their data  
24 in the future, we so do.

25 MR. CASTRILLI: Q. Just on that point

1       then. Are the cutover mapping and cutover assessments  
2       produced annually by management unit?

3               DR. OSBORN: A. Certainly the cutover  
4       mapping is done on an annual basis. There is a legal  
5       obligation under the Crown Timber Act to demonstrate,  
6       to indicate how much cutover there has been.

7               MR. CASTRILLI: Can I just have guidance  
8       from Mr. Freidin.

9               Will Panel 15 be able to speak to the  
10      issue of cutover mapping and cutover assessments and  
11      their relationship to the timber management plans?

12              MR. FREIDIN: I am not sure where it is  
13      going to be dealt with and how it will be dealt with.  
14      I will get back to you on that.

15              MR. CASTRILLI: Is it going to be dealt  
16      with?

17              MR. FREIDIN: There will be reference to  
18      cutover mapping, I am just not too sure where it is  
19      going to be.

20              THE CHAIRMAN: All right. Would you  
21      advise Mr. Castrilli when you find out, please?

22              MR. FREIDIN: Certainly.

23              MR. CASTRILLI: Thank you, Mr. Chairman  
24      I'll move on then.

25              Mr. Chairman, I wonder if I might have



1       some guidance from you as to how long we are going to  
2       be sitting today? I am about to embark on what is  
3       going to be a very long area and I would prefer not to  
4       break it up over the weekend.

5               THE CHAIRMAN: Well, let us have an  
6       estimation from you, Mr. Castrilli, of where you are in  
7       your cross-examination.

8               MR. CASTRILLI: You mean, in terms of the  
9       long view?

10              THE CHAIRMAN: The overall picture.

11              MR. CASTRILLI: The big picture.

12              THE CHAIRMAN: The long view.

13              MR. CASTRILLI: I would think -- well,  
14       no, my predictions have been so off so often. I would  
15       think that I am going still be on Tuesday.

16              THE CHAIRMAN: Mr. Armson is smiling.

17              MR. CASTRILLI: I don't have the  
18       resources he has though to make predictions.

19              I would have to suggest that probably I  
20       will still be on all of Monday and possibly Tuesday --  
21       well, not all of Tuesday, but probably into the morning  
22       on Tuesday.

23              THE CHAIRMAN: Okay, and if you finish by  
24       mid-Tuesday, how long do you think you will be, Ms.  
25       Seaborn?

1 MS. SEABORN: Well, I have estimated  
2 about three hours to half a day at the very most, but I  
3 think probably a little less, and I understand Mr.  
4 Edwards has some questions for this panel and he will  
5 be going before me.

6 MR. FREIDIN: He told me three hours.

7 THE CHAIRMAN: So that will take us  
8 probably to the end of Wednesday.

9 MR. CASTRILLI: Just looking at what I  
10 have, it is conceivable I could finish by the end of  
11 Monday, but I am not -- I have been off every day so  
12 far.

13 THE CHAIRMAN: Okay. In any event, we  
14 should be completed the cross-examinations, based on  
15 what everyone is saying, by Wednesday I would think.

16 How much re-examination do you have,  
17 or do know? I guess you don't know yet.

18 MR. FREIDIN: I have difficulty at the  
19 moment. I have lots of notations on the right-hand  
20 side of my paper, and whether I ask all those  
21 questions...

22 THE CHAIRMAN: Okay. If we should finish  
23 early on Thursday by some chance, would it be your  
24 intention to perhaps run the orientation session here  
25 as opposed to Dryden for the site visit?

1 MR. FREIDIN: Yes.

2 THE CHAIRMAN: So that we could perhaps  
3 do that for the rest of Thursday before we go home?

4 MR. FREIDIN: I don't know how long that  
5 would take. I understand that it would take  
6 approximately a half an hour to an hour, or in that  
7 range, and that there would be -- it's anticipated that  
8 there would be an opportunity for people to ask  
9 questions.

10 THE CHAIRMAN: Are you intending that it  
11 would be done in this room or, in a Ministry office?

12 MR. FREIDIN: Here.

13 THE CHAIRMAN: Right here, okay.

14 Then conceivably we will try and have  
15 that orientation here, if we have the time available,  
16 otherwise we will do it in Dryden.

17 ---Discussion off the record

18 THE CHAIRMAN: Okay, we will re-assess  
19 the timing next week when Mr. Castrilli is further  
20 along.

21 It is a quarter to two. We were only  
22 planning to sit until 2:00, so this may be an  
23 appropriate place to break and not split this up.

24 MR. CASTRILLI: Thank you, I appreciate  
25 that.

1                   MR. FREIDIN: And, if my understanding is  
2 correct, having regard to the timing of things, we will  
3 start Panel 4 when we come back in August?

4                   THE CHAIRMAN: Yes, yes. It does not  
5 make much sense to start it for one day next week.

6                   And, by the way, if we happen to finish  
7 early - God forbid - next week by Wednesday and we get  
8 the orientation in as well, we may just pack up  
9 Wednesday and not stay over Thursday.

10                  MR. FREIDIN: Go, Mr. Castrilli, go.

11                  THE CHAIRMAN: Very well. We will  
12 adjourn until Monday at 9:30 a.m.

13                  Thank you.

14                  MR. CASTRILLI: Monday at one?

15                  THE CHAIRMAN: Oh, Monday at one, you are  
16 right. You can start Monday at 9:30.

17                  MR. CASTRILLI: On the plane.

18                  ---Whereupon the hearing adjourned at 1:50 p.m., to  
19 reconvene on Monday, July 11th, 1988, commencing at  
1:00 p.m.

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